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THE

EDINBURGH REVIEW,

DECEMBER, 1818.

No. LXI.

ART. I. *The History of British India.* By JAMES MILL Esq. In Three Volumes. 4to. pp. 2148.

THE state of our Indian Provinces is a subject as to which all sound information is nearly as unattainable, as the commonplaces which have been substituted for it are dazzling and abundant. The extent and populousness of the territory—its strange people—the numerical disproportion of the conquered to those who hold them in subjection—have been obvious topics for every declaimer: and even persons who are accustomed to political inquiries, have sometimes been content to wonder at an empire which nothing but good fortune could have created, and nothing but good fortune could preserve. By the great bulk of our countrymen, however, Hindostan is looked upon merely as a large country, which serves to swell the number of the King's subjects to the astonishment of foreigners, and affords a convenient place for the younger sons of respectable families to acquire fortunes and diseases in the liver. About the people, too, we make ourselves perfectly easy. They have been transferred from Pagan and Mahomedan to Christian rulers; and, of course, been exalted to the highest pitch of happiness by the exchange.—When it is proposed to review the Company's charter, a little temporary interest seems to be excited on the subject; and the sympathy, which had been dormant for years, revives for a moment, when the question comes to be, whether British traders should be admitted to a competition with the India Company. But with the settlement of that question, this interest has uniformly subsided; and, during the five Sessions since the act of 1813, not one inquiry has been entered upon, and (if we may trust our memories) not one question has been put, in the British Parliament, respecting the condition of the fifty millions of Hin-

doos over whom that body possesses a Sovereign power, and is bound, if there be any reciprocity of duties between rulers and subjects, to exert a Sovereign's care.

This silence respecting Indian affairs, interrupted only by flashes of panegyric, will appear still more strange, when contrasted with the incessant calls made on the attention of the nation, thirty and forty years ago, by the greatest orators and statesmen of the day. The British dominions in India certainly have not become more contracted since that period; nor, although our possession of them be more secure, has the welfare of their countless inhabitants become less worthy of concern. We shall see, by and by, whether it can be maintained that the plans which have been devised for their administration are so perfect as to exempt from the common necessity of inspection,—or whether their distance from the seat of government, and the abjectness and ignorance of the people, be sufficient to ensure the utmost vigilance and probity on the part of their delegated masters.

Among the causes which have contributed to produce this apathy, one undoubtedly is, the increased and increasing amount of the materials necessary to form an accurate knowledge of Indian affairs. There have been speeches in Parliament and polemical pamphlets, with a multitude of conflicting opinions, and just as many facts as were necessary to support them;—there have been detailed histories of campaigns, and apologies for particular administrations;—there have been voluminous Parliamentary reports, with their usual accompaniments, correspondence, minutes of evidence, and accounts, more formidable than the ordinary run of such documents:—But there has not hitherto been any work discriminating between the useful and unimportant parts of this vast mass, which it is impossible for any one who has not devoted years of labour to that purpose, to wade through. To enable an individual to take an interest in present politics, some historical knowledge is just as necessary as an acquaintance with the rudiments of science to the reader of a scientific journal: For to those who are not acquainted with previous transactions—with plans of legislation which have been projected or put to the test—and who have formed no theories which give the mind a motive to observe occurrences and to reflect on them, by connecting them with its pride or its disappointment, the passing events will afford no instruction, and will scarcely be held in remembrance. A good history of British India was necessary, therefore, not only to supply a deficiency in our literature, but to afford a better chance that India should be well governed, by attracting to its administration the eyes of some who have not an interest in praising all its acts.

This is the work which Mr Mill has undertaken; and of the execution of which it is impossible for us to give any thing more than a very general idea. He appears to possess, in perfection, the patient industry and habits of research which the work demanded; an acute and logical mind, with very little imagination or passion, and well stored with that sort of information, which such a mind, combined with such powers of application, is apt to acquire. He seems perfectly familiar with the modern and ancient historians and orators, and to have studied diligently the progress of all the sciences connected with government and legislation, from the earliest speculations to their most recent advances. It is not difficult, after this character, to imagine how he has performed his task. Those parts in which picturesque description, and the power of warm and interesting narrative might have been displayed, are not made the most of by him. But in the careful investigation of facts, and of the inferences to be drawn from them—in illustrating his subject by help of the widest range of historical knowledge—in discriminating between the real and apparent causes of events—in the examination of policy—in the exposition of the motives of the actors, and the consequences of their acts—in unfolding

' —the drift of hollow states hard to be spelled,'

he leaves little to be desired. Of partiality in bending facts or opinions in favour of any individual or any party, we have not discovered the least symptom; and though it may be invidious to pry into the causes of so good a quality, we are apt to attribute his merit, on this score, to his habits of thought, as much as to his love of justice. He has evidently formed to himself a very high standard of attainable perfection in matters of government, and seems to entertain no little contempt for all practical statesmen. He is therefore nowise disposed to exaggerate the merits of persons with whom he feels so little in common. He is sparing of his censure and of his praise; and the influence of no name or party can procure an exemption from his scrutiny, for a fallacy or an error.

There is one objection against Mr Mill, which he anticipates, and against which he reasons in a manner to us very satisfactory. He has never been in India; and has at best but a slight acquaintance with the languages of the East: and, at first sight, this objection may appear of some importance. If we take two persons of the same station in life, one of whom has resided in India, while the other has never left this country, we shall of course generally find the former much better acquainted with Indian affairs than the other, who has probably read and thought very little about them. On the other hand, all those who have made per-

sonal observations on India, are apt to undervalue the information which can be obtained from books, and create a monopoly which will secure the reception of the opinions which they choose to dispense to us. Mr Mill contends, that though some knowledge may be acquired by seeing India, which cannot be acquired without it; yet, that the qualifications which can be acquired in Europe, are much more essential to the composition of a history of India; and that a life spent in travelling in India, or in the acquisition of languages, is almost incompatible with the habits of deciding on the testimony with which the historian has to deal, and the knowledge which is necessary to convey just ideas on the nature and tendency of the great measures on which he has to form a judgment. He remarks, too, that as the powers of observation in any one individual are very limited, a competent knowledge of so large a scene as India could never be obtained but by combining the testimony of many; and that it is therefore very doubtful how far it is desirable that one of the witnesses should be called to decide on this complex evidence—especially as conceptions derived from the senses are much more vivid than those supplied by description; so that, when some small part of a great mass of knowledge has come from observation, and the rest from testimony, however indisputable, it can scarcely but happen, that the impressions received from the senses should exert an undue influence, and render the conception of the whole erroneous. To this we may add, that the most enlightened of the Company's servants have ever been most ready to acknowledge how little their own habits, and the reserve of the Hindoos, will allow them to learn of native society; and our readers may remember, that, in a former Number, we noticed the work of a French missionary, published by the Court of Directors, for the express purpose of supplying their officers with somewhat more knowledge on this subject, than by their personal exertions they would be able to procure. It is also an advantage not to be overlooked, that Mr Mill has not been drawn into the vortex of an Indian party. The writers on the affairs of India have too frequently been men who have either themselves filled high stations, or, being attached to this or that ruler by ties of gratitude, have been disposed, at all events, to defend his particular system of administration. Their productions are excellent materials for history; but it is well for us, and for themselves, that they are not historians.

Mr Mill 'proposes, 1. To describe the circumstances in which 'the intercourse of this nation with India commenced, and the 'particulars of its early progress, till the era when it could be 'first regarded as placed on a firm and durable basis. 2. To 'exhibit as accurate a view as possible of the people with whom

'our countrymen had then begun to transact—of their charac-
'ter, history, manners, religion, arts, literature and laws; as
'well as of the physical circumstances of climate, soil and pro-
'duction, in which they were placed. 3. To deduce to the pre-
'sent times a history of the British transactions in relation to
'India,' &c. &c. The matter is divided into six books. The First contains the commencement and progress of the British intercourse with India, till the establishment of the Company on a durable basis, by the act of Queen Anne. The Second book is on the Hindoos; the Third on the Mahomedans; and these three fill the first volume. The Fourth book comprises the period from 1708, till the change in the constitution of the Company in the year 1773. The Fifth book continues the history to the time of Mr Pitt's act in 1784, the second great change in the constitution of the Company; and the Sixth, which comprises the whole of the third volume, brings down the narrative to the conclusion of the Mahratta war in 1805,—with which the history terminates.

The Company, in the name of which so great an empire is now governed, originated in a charter of Queen Elizabeth in 1600, and made its first adventure in 1601, for which 68,373*l.* were subscribed. An anecdote is preserved by Mr Mill, which will show, that, in their humble origin, they displayed a spirit of independence which would grace their higher fortune. While their patent of incorporation was still under consideration, an application was made from court for the employment of a Sir Edward Michelbourne in their projected voyage. The Committee, though standing in the situation of petitioners for a favour not yet conceded,—stated it to be their resolution 'not to employ 'any Gentleman in any place of charge;' and requested 'that 'they may be allowed to sort their business with men of their own 'qualitye, lest the suspicion of the employm^t of Gentlemen be-'ing taken hold uppon by the generalitie, do dryve a great 'number of the adventurers to withdraw their contributions.' (I. p. 14.) This unwarrantable aversion of the 'Generalitie' to a job, in which they persevered—for there was no Board of Control in those days—is a curious trait of the infancy of their Corporation: But, on the other hand, it is to be remembered that their mercantile dealings were profitable. The trade was, as is well known, carried on in the principles, not of a Joint Stock, but of a Regulated Company—each subscriber managing his respective share of the property on his own account, subject only to certain general regulations. On the eight voyages managed in this manner, leaving out of account one small adventure which was wholly unfortunate, the average profits were no less than 171 per cent. In 1610 the Regulated was changed into a

Joint Stock Company; and the four first voyages conducted on this principle afforded an average profit of 87½ per cent.;—a falling off, compared with the profits of the Regulated Company. After this there are no distinct accounts of the profits: But in 1627 we find the Company stating that they had been obliged to contract a debt of 200,000*l*., and that their stock was at a discount of 20 per cent;—their 100*l*. shares selling at 80*l*. About the same time we find them complaining of the envy and malice of the Dutch, who are chiefly accused of selling their goods so cheap, and buying Indian goods so dear, 'that they thrust the Company out of the markets of the East.' It soon appears, however, that 'this effect defective came by cause.'

'From servants at a vast distance,' says Mr Mill, 'and the servants of a great and negligent master, the best service could not be easily procured. For this discovery, the Directors were indebted, not to any sagacity of their own, but to a misunderstanding among the agents themselves, who betraying one another, acknowledged that they had neglected the affairs of their employers to attend to their own, and, while they pursued with avidity a private trade for their own benefit, had abandoned that of the Company to every species of disorder.' I. p. 41.

The truth is, that they began thus early to clamour against all competition and free trade; and in 1639 complained to the King, that if the license given to a Sir W. Courton was not withdrawn, they would be compelled to abandon their trade altogether. The true effects, too, of a free trade, seem to have been well understood at the time, if not by the Company itself, at least by their intelligent rivals. For Cromwell having granted a commission in 1657 to fit out four ships for the Indian trade, under the management of a Committee, the measure, it seems, was misunderstood in Holland,—and it was supposed that the Protector had thrown entirely open the trade to the East.

'The interests of the Dutch Company made them see, in this supposed revolution, very different consequences from those which the English Directors made them believe or pretend that they beheld in it. Instead of rejoicing at the destruction of a joint stock in England, which they ought to have done, if by joint stock alone the trade of their rivals could be successfully carried on, they were filled with dismay at the prospect of freedom, as likely to produce a trade with which they would attempt competition in vain.' I. p. 53.

From this time till 1667, the operations of the Company were very feeble;—they abandoned many of their out-factories in India, and exhibited every symptom of a declining commerce. In particular years their exports did not amount to more than 20,000*l*. After 1667 their dealings were greatly enlarged; but we are still left in the dark as to the profits. At the time of the Revolution, the Royal authority under which the Company not

only traded, but had been in the habit of seizing their fellow-subjects in the East, and of trying their servants by martial law, began to be questioned; and the House of Commons at last denied the power of the Sovereign to restrain, without the sanction of Parliament, the freedom of trade. A new Association obtained an act of Parliament in its favour; but after some negotiations which are well known, the two Corporations were joined under the name of the United Company of Merchants trading to the East Indies;—and in 1708, they were secured by Parliament in the exclusive possession of the trade to the East, till the expiration of three years notice after March 25th, 1726.

At the time of the new charter of the Company, its powers were thus distributed. All the proprietors who possessed 500*l.* stock assembled in a General Court, were invested with the supreme legislative authority. All laws and regulations, all declarations of dividends, all grants of money, were made by them. The executive power was vested in 24 Directors, chosen from among persons possessed of 2000*l.* stock, by the General Court. It was their duty to act under the ordinances of the Proprietors, and to manage the business of routine. They had a Chairman and Deputy Chairman to preside in the courts. Mr Mill's remarks on this constitution are in themselves important, and form a good specimen of his manner of reasoning. After comparing this Corporation to the constitution of England, he says—

'In the constitution, however, of the East India Company, so much power was allotted to the democratical part, that a small portion appears to have been reserved to the other two. Not only were the sovereignty and the aristocracy both elective, but they were elected from year to year; that is, were in a state of complete dependence upon the democratical branch. Nor was this all. No decrees but those of the democracy were binding, at least in the last resort: the aristocracy, therefore, and monarchy, were subordinate and subject. Under the common impression of democratic ambition, irregularity and violence, it might be concluded that the democratic assembly would grasp at the whole of the power, would constrain and disturb the proceedings of the Chairmen and Directors, would deliberate with violence and animosity, and exhibit all the confusion, precipitation and imprudence which are so commonly ascribed to the exercise of popular power.

'The actual result is extremely different from what the common modes of reasoning would prompt common minds to infer. Notwithstanding the power which, by the theory of the Constitution, is thus reserved to the popular part of the system, all power has centered in the Court of Directors; and the government of the Company has been an oligarchy in point of fact. So far from meddling too much, the Court of Proprietors has not attended to the common af-

fairs, even sufficiently for the business of inspection: And the known principles of human nature abundantly secured that particular result. To watch, to scrutinize, to inquire, is labour; and labour is pain. To confide, to take for granted that all is well, is easy, is exempt from labour, and, to the great mass of mankind, comparatively delightful. If they who transact, therefore, have only sufficient prudence to avoid those occurrences which are calculated to rouse the people for whom they transact, the people will allow them abundant scope to manage the common concerns in a way conformable to their own liking and advantage. It is thus that all constitutions, however democratically formed, have a tendency to become oligarchical in practice. The more numerous body, who constitute the democracy, see the objects of ambition at so great a distance, and the competition for them is shared with so great a number, that, in general, they make but a feeble impression upon their minds: The small number, on the other hand, entrusted with the management, feel so immediately the advantages, and their affections are so powerfully engaged by the presence of their object, that they easily concentrate their views, and pour their energies with perfect constancy in the selfish direction. The apathy and inattention of the people, on the one hand, and the interested activity of the rulers on the other, are, in politics, two powers, the action of which may always be counted upon; nor has the art of government as yet exemplified, however the science may or may not have discovered, any certain means by which the unhappy effects of that action may be prevented.' II. p. 4.

In India, the Company's affairs were, at this time, and long continued to be, directed by three Councils, at Bombay, Madras, and Calcutta—which were generally composed of the senior servants of the Company. But those persons were not debarred from holding subordinate situations;—and they consequently distributed among themselves the most lucrative places in their gift, no matter how incompatible with their functions as rulers. It seldom, if ever, happened, that some of each Council were not appointed chiefs of the more important factories, to which they transferred their residence; while, by their rank and power, they pretty securely defied all censure for malversation or negligence. We should not mention this practical instance of the incapacity of a Joint-stock Company to conduct a commercial concern with advantage to itself and to the nation, did we not recollect, that the trade of this country with the most populous empire in the world, and the sale of one of the most important articles of domestic consumption, is still monopolized by such a body.

In 1732, the charter of the Company was renewed, on the condition of their making some advances of money to the Government. But there had been so much opposition, that they thought it prudent not to provoke its renewal by allowing the

full period of their monopoly to expire;—and accordingly, in 1744, when nobody was thinking of the matter, and when the Government was in great want of money, they made a proposal to lend the state a million at 3 per cent., provided the period of their exclusive privileges were prolonged to the expiration of three years notice from March 1780. The bribe was accepted; and the Company thus secured in their exclusive trade for half a century without discussion. To show the real motive of the transaction, which originated in no overflow of capital, the Company was authorized to *borrow*, on its own bonds, the million which it was to *lend* to the Government.

About the middle of the century, a new era began in India. The European companies had long been kept in awe by the prodigious numbers which the native powers could bring into the field; and having generally neither able officers nor experienced troops, had never ventured to try the effect of European discipline against enemies to whom they seemed so unequal. Some experiments of the French led the way to the conquest of Hindostan by their ancient rivals;—much in the same manner as the expedition of the ten thousand and the campaigns of Agesilaus opened the Persian monarchy to the attacks of Alexander. A large army of the Nabob of Carnatic, in 1746, invested Madras, which was then in the hands of the French, by whom it had been taken from the English. A single French battalion, which was then in the town, attacked the army, astonished them by the rapid discharges of its artillery, and gained a decisive victory. The French, too, at Pondicherry first set the example of training sepoys in the European manner. The experience of the weakness of the native armies against European discipline, and the facility of imparting that discipline to natives in the European service, are the two discoveries which have given India to the most energetic of the European nations who happened to have a footing there.

The history of the Company in its new character, as a Sovereign power, is one of the most instructive narratives which are anywhere to be found—from the complete manner in which the motive of every transaction has been laid bare. From the distance of the scene from the seat of government in England, it has always been necessary that the local agents should immediately commit to writing their exposition of every occurrence. From the constitution, too, of the Presidencies or Councils in India, debates generally took place, in which reasons were urged for and against the different measures, which were afterwards recorded in the shape of Minutes. The Directors were also obliged to send out very full instructions in their letters; and all these documents have been open to inspection, whenever the British

Parliament could be persuaded to call for them. At the period of Hastings's trial, the most searching inquiries were made; and all the documents which could throw any light on the early history of British India, were produced and commented upon by the keenest minds of the age. To this complete exposure Mr Mill attributes the appearance of profligacy in the conduct of the Governors of India, more than to any actual inferiority to other rulers, whose actions have not been laid so open. We are inclined, however, to think, that their conduct has been really worse; though we are far from supposing, that, individually, they have been more profligate than other sovereigns: and we shall state in a few words the grounds of this opinion.

The only real securities which a people can possess against the oppression of rulers over whom they have no legal control, are to be found in the dread of Shame, in the Sympathy in the sufferings or the welfare of those around us, or in the dread of Insurrectionary vengeance. Now, in India, these securities are feeble indeed. There, no shame can attach to oppression—for there is no public opinion which European rulers can be made to feel. The causes which remove the English from public opinion, debar them from sympathy with the natives. We feel little sympathy for those among whom we have not lived in our childhood, and among whom we do not expect to pass our old age. We feel little for those whose complaints we do not hear in our own language, whose habits we despise, who are constantly guilty of acts which we are accustomed to regard as crimes, and who, however we afflict them, afflict themselves still more by a voluntary submission to the dictates of a cursed superstition. Still less, perhaps, shall we find among those adventurous men who govern India, a dread of insurrection. They possess a military power sufficient to overwhelm all opposition; and those provinces which are the most tempting to oppressors, are the least formidable from the nature of their population. Most of their property, too, is secure in England; and they have there a sure refuge for themselves. These remarks apply with the same force to the transactions with native princes, as to those with their native subjects. It is not to be denied that the manners and religion of European rulers must deter them from those acts of wanton cruelty which will be found to stain the annals of Asiatic conquerors, and from some of those barbarities which serve rather to shock the feelings of a hearer, than to form a serious article in the account of a nation's sufferings. But, in opposition to the interest of rulers, the influence of manners and religion on their policy, must at the best be casual and uncertain.

Accordingly we find, at the very outset of the history of the

Company as a governing body, a series of acts of treachery and unjust violence, sometimes for the benefit of the Company, sometimes for that of their servants, such as it would not be easy to match in the annals of men whom we are accustomed to consider as the worst of tyrants. We may take, as a specimen, their first interference in the affairs of the native princes in 1749.

A pretender to the throne of Tanjore, who, according to the ordinary rules of succession, had a better claim to the throne than its actual possessor, applied to the Madras Government for an army to support him in his quarrel; and offered, as a reward for their assistance, the possession of a port called Devi-cottah, which it was considered convenient for the Company to obtain. With the ruling prince, Pretaupa-Sing, the Company had corresponded for years, with the fullest recognitions of his title; and in India, the course of succession is in fact so uncertain, that seldom is a sovereign to be found who can make good his title according to our notions of legitimacy. But the promise of Devi-cottah inspired the Company with a flaming zeal for the *jus divinum*; and they despatched an army to desolate Tanjore, and to dethrone its sovereign. This was bad enough; but this was not all. The army got possession of Devi-cottah, according to the bargain; but then it was found, that the establishment of the Company's *protegé* would be rather a difficult task, and therefore they made peace with Pretaupa-Sing, who agreed to concede to them the port in question, and territory worth 9000 pagodas a year; and, in return, these champions of legitimacy stipulated, not only that they would abstain from hostilities, but that they would secure the person of the pretender, the rightfulness of whose claim had been the sole justification of this appeal to arms, that he might give no further molestation to their new ally—who was to allow them 400*l.* for the yearly expenses of their state prisoner. He escaped from his betrayers: but his uncle, the leader of his party, was imprisoned by the English for nine years, till he was released by the French when they took Fort St David, in 1758.

The price of this first piece of treachery in the South was a port;—the price of the next was a kingdom. In the year 1757, after a war with Surajah-Dowla, Subahdar or Nabob of Bengal, the government of Calcutta had entered into a treaty with that prince. They found it convenient, after the treaty was concluded, to attack a French factory in the Nabob's dominions, in spite of his entreaties and commands. The Nabob, who was threatened by other enemies, did not think it prudent to resent this insult, and still continued on amicable terms with the English, who had a resident at his Court. The Government at Calcutta, however, were more sensitive, and reasoned in this

manner—They had acted so as to entitle the Nabob to expel them from his dominions, whenever he found an opportunity; it was necessary, therefore, that they should follow up their injustice, to secure themselves from punishment: and accordingly, without more ado, they resolved to dethrone the Nabob. Having satisfied themselves as to the propriety of the end, they were not, as might be supposed, very scrupulous as to the means. They debauched his confidential servant and the officers of his army. They promised Meer Jaffier, the paymaster-general of his forces, the sovereignty of Bengal, as a reward for betraying his master, to whom he was also related by marriage; and he promised in return, that when he should be put in possession of the Subahdarry, he would pay 1,200,000*l.* to the Company, under the name of compensation for their losses during the former war, and about as much more to the inhabitants of Calcutta, the army, and the fleet. The business of negotiation was conducted by a Committee of the Council, who, reflecting that quite as much would be accomplished by fraud as by force, thought it but just that they should not forget themselves. This, they would have us believe, was quite an after-thought. 'When this was settled,' says Lord Clive, in his evidence before the Committee of the House of Commons, 1772, speaking of the stipulations we have mentioned, 'Mr Becker, a member, 'suggested to the Committee, that he thought that Committee 'who managed the great machine of government, was entitled 'to some consideration, as well as the army and navy.' 'Such 'a proposition,' observes Mr Mill, 'in such an assembly, 'could not fail to appear eminently reasonable. It met with 'a suitable approbation.' *Colonel Clive and the Governor received* 31,000*l. each, and the other members of the Committee each* 27,000*l.* The army took the field. The Nabob assembled his force to meet it; but the paymaster moved off with his division during the battle; and the English were victorious, almost without a struggle. Surajah Dowla fled, but fell into the hands of Meer Jaffier; by the order of whose son he was immediately assassinated. This atrocious transaction was scarcely heard of in England till fifteen years after, when it was fully investigated by a Committee of the House of Commons in 1773—and resolutions declaring its illegality unanimously adopted. But by this time Clive had been rewarded with an Irish peerage—was a member of that very House of Commons—and had secured in England an immense fortune, the result, in great part, of those acquisitions which were then declared to be illegal. The influence which the Minister of the day might acquire by a compromise with wealthy delinquents, is stated by Burke as one of the worst effects of the possession of India upon the

British constitution. Whether in this instance such a compromise took place, or whether the talents and achievements of Clive awakened compassion in his favour, all attempt to proceed to measures of greater severity against him proved abortive; and future oppressors in India were taught, that even if their delinquencies were exposed, and their acts declared to be illegal by the highest authority in England, means were still to be found by which prosecution and punishment might be averted. When Clive was protected, of course his coadjutors were not punished.

We shall pursue a little further the narrative of proceedings in Bengal. Meer Jaffier the conspirator, it appears, had not been chosen with any great regard to his fitness for the duties of a sovereign. He was found to be voluptuous and indolent. He could not raise the sums which he had promised to pay, and the English could not get money for the troops which they had maintained to defend him. It was convenient, therefore, for them to break the treaty with Jaffier, as they had broken that with his predecessor. Mr Vansittart, who was then Governor of Bengal, entered into a treaty with the son-in-law of the Nabob, Meer Causim, who, in return for the assignment of some districts, and a present of some lacs of rupees to the Company, was to be invested with the whole powers of the administration; Jaffier retaining the name, but nothing of the authority of a Nabob. The palace of Jaffier was seized by English troops; and the arrangement, as it was called, was tendered to him for his approbation. He was assured, that no designs against his person or authority were entertained;—that nothing was proposed beyond *a reform* of the government in the hands of his son-in-law, who would act as his deputy. But he knew the meaning of this language; and thought it quite as honourable, and much more safe, to lead a private life under English protection.

The scene which opened during the reign of his successor, is a still more striking instance of public morality. Meer Causim was a successful financier; he discharged the whole of his pecuniary obligations to the English, and satisfied both his own and his predecessor's troops. He introduced strict economy into his expenditure; and he was improving and new-modelling his army, when his government became involved in disorder by the pretensions of the Company's servants. This, too, requires a word or two of preliminary explanation.

In Hindostan, the transit of goods within the country was subject to duties from time immemorial, and which formed a great part of the revenue of the native governments. At an early

period of their history, the Company had obtained from the Mogul Emperor, a *phirmaun*, or imperial decree, by which the goods employed in their import or export trade were exempted from these imposts. The benefit of this privilege long accrued to the Company alone; and though their servants who engaged in private trade, sometimes sought to participate in it, such attempts were always opposed by the Subahdars as frauds on the revenue, and unfair advantages taken over the native merchants. After the elevation of Meer Jaffier and Cassim, however, all the Company's servants usurped this privilege of the corporate body; and when any collector ventured to perform his duty towards these authoritative traders, it was customary to send a party of sepoys to seize him, and carry him prisoner to the nearest English factory. The oppression exercised in this form was incredible. The greater part of the native merchants were driven out of the country trade; while the revenue and its collectors, the Zemindars, were reduced to absolute ruin.

Mr Vansittart the governor of Calcutta interfered to check these enormities; but he was compelled to apply to the Council, without whose authority he was unable to take effectual measures. The majority of the Council, it happened, were hostile to this gentleman; and were, besides, interested in the disorders of which he complained. They not only, therefore, refused to repress them, but pronounced the feeble efforts of the Nabob's officers in behalf of their countrymen, to be symptoms of culpable enmity to the English interest. It should be remembered, to the credit of Warren Hastings, who at that time was a member of Council, that he dissented from the proceedings of this bold majority. The governor then concluded an agreement with the Nabob, by which all the Company's servants were to be allowed to carry on the home trade upon payment of duties far less than those exigible from the native merchants. But to this the Council refused to accede. They declared, with only two dissenting voices (those of Mr Vansittart and Mr Hastings), that the Company's servants had a right, though confessedly it had never been exercised, to trade duty-free,—but, out of regard to the Nabob they would consent to pay a duty of $2\frac{1}{2}$ per cent. (about one tenth of the usual rate) on salt alone. They at the same time decreed, that all disputes between the English and the Natives should be referred, not to the legal tribunals of the country, but to the English heads of factories and residents—that is, as Mr Mill observes, 'to men, not only, in the majority of cases, far too distant to receive the complaints, but, what was still more shameful, men reaping exorbitant profits from the abuses over which they were thus exclusively vested with the judicative power.'

The Nabob, in despair now of the arrangement with Mr Vansittart, wrote to the Council to relieve him from the burthens of the government, since they deprived him of the powers necessary to carry it on; and, as his last resort, he abandoned all the duties on the transit of goods, and laid the interior trade of the country perfectly open. 'Never,' said the Committee of the House of Commons, 'was a method of defeating the oppressions of monopoly more forcible, more simple, or more equitable.' But its equity was of little avail to the Nabob. The Council, incredible as it may seem, *denied his power to take off the duties*, and seriously asserted that he was bound to continue to burthen his people with taxes, in order that the English might enjoy a comparative advantage by being exempt from them. For this unheard-of offence he was hurried into war, defeated, and actually deposed!—and, with his deposition in 1764, ended almost the appearance of independence in the Nabobs of Bengal. It was on the strength of transactions like these, of which we should tire our readers if we went through the catalogue, that Burke made the sweeping assertions, 'that there was not a single 'prince, state, or potentate with whom the Company had come 'into contact whom they had not sold,—that there was not a 'single treaty they had ever made which they had not broken, '—that there was not a single prince or state, who had ever put 'trust in them, who was not utterly ruined.' We are accustomed to rate very highly the security which is derived from being governed by men having the advantages of English education and English feelings. But it affords a lesson of melancholy instruction as to the feebleness of this security, when we see gentlemen eminently possessed of these advantages, and placed far above the reach of want, ready to destroy the commerce of a great country, to break down the administration of justice, to oppress the people, to violate treaties, to kindle a war, and to depose a monarch, their ally, merely to secure to themselves the profits of an illegal traffic.

When we find our Indian rulers exempt from so many of the checks which exist in the most arbitrary of the European States, some of which even exist in the simple Asiatic despotisms, we are naturally led to inquire how far this deficiency is supplied by the controlling authority in England: And here, if we could even forget that the persons who are so to be coerced are the relations, the friends, at any rate the countrymen of the Directors,—that the persons in whose behalf they are to interfere, are neither of the same country, nor colour, nor language,—are strangers whom they will never see, and whose sufferings it requires an effort of the imagination even to picture to themselves; yet we must remember, that oppression is not a simple act, a plain open proceeding which can be put an end to by a simple

precise order. It springs up in a thousand different forms, and requires continually renewed efforts to repress it. We must remember, that with the native powers there must be constant opportunities for war, if war be desired,—which it is vain for persons 9000 miles distant to attempt to anticipate. But, besides this, nothing is more common in the history of British India, than instances in which the most positive orders of the Directors have been absolutely contemned by their servants in the East. We shall select a few cases connected with the events to which we have just alluded.

In a letter of the Directors to the Governor and Council of Bengal, dated Feb. 8, 1764, they said that 'one great source of the disputes and misunderstandings which had occurred with the country governments, appears evidently to have taken its rise from the unwarrantable and licentious manner of carrying on *the private trade* by the Company's servants, &c. In order, therefore, to remedy all these disorders, *we do positively order and direct, that from the receipt of this letter, a final and effectual end be forthwith put to the inland trade in salt, betel nut, tobacco, and all other articles whatever produced and consumed in the country.*' II. p. 210.

On the 17th of October of the same year, this letter was taken into consideration by the Council at Calcutta. The great articles of the internal trade of Bengal were salt and betel nut—salt being, out of all proportion, the most important. Tobacco was an object so inconsiderable, that few, if any, of the Company's servants had ever engaged in it. The Board, therefore, with appearance of proper submission, gave up the trade—*in tobacco*—which was of no value—but retained the trade in betel nut and salt! On the 1st of June a second letter had been written by the Court of Directors, nearly in the same terms with the former. But the Committee, instead of yielding obedience to this reiterated order, determined *to defer all proceedings* till the arrival of Clive; and, in the mean time, the course of the inland trade remained undisturbed.

On May the 3d, 1765, Clive arrived at Calcutta, invested with the power of Commander in Chief, President and Governor in Bengal, and authorized, together with four gentlemen, to act with full authority, as often as they deemed it expedient, without consulting the Council, or being subject to its control. Before the beginning of June, Clive and this committee, with one exception, instead of abolishing the inland trade, actually *formed a partnership for buying up large quantities of salt.* During the month of June the purchases were made; and in nine months the parties realized a profit, including interest, of about 45 per cent. Clive himself stated, in his speech in the House of Commons, that this flagrant disobedience of the Company's orders 'was intended for the benefit of his Secretary, his Sur-

geon, and an old friend and relation;'—and this he considered as an excuse!

After the profits of this transaction had been secured by the purchases that had been made, it was at last resolved, by the Select Committee, that a monopoly should be formed of the trade in salt, betel nut, and tobacco, to be carried on for the benefit of the superior servants of the Company,—the profits being divided in certain proportions. In the mean time, the Directors had written a *third* letter, in February 1765, confirming their previous orders for the abolition of the trade, and positively requiring that no steps whatever should be taken towards the renewing this traffic, without their express leave. On the 19th of February 1766, they again declared that they considered the subsistence of this trade 'as an express breach 'and violation of their orders, and as a determined resolu-'tion to sacrifice the interests of the Company and the peace of 'the country to lucrative and selfish views:' And they added, 'Whatever government may be established, or whatever un-'foreseen circumstances may arise, it is our resolution to *pro-'hibit, and we do absolutely forbid, this trade of salt, betel nut 'and tobacco*, and of all articles which are not for export and 'import:'—And they ordered that all Europeans concerned in that traffic thenceforward should be sent to England, to be proceeded against as guilty of a breach of covenants.

Notwithstanding this fourth express prohibition, the Committee proceeded, on the 3d of September in the same year, *to renew the monopoly!*—Clive in his minute availing himself of the excuse, which can never be wanting in such a case, that the Directors could not have the least idea of 'that favourable 'change in the affairs of these provinces, whereby the interest 'of the Nabob, with regard to salt, is no longer immediately 'concerned.' On the 9th of December, new fulminations of the Directors reached Calcutta, which Clive did not, perhaps, think it worth while to resist, as, in less than a month afterwards, he declared his intention of returning to England. The Trade Society, for so this monopoly partnership was called, was then ordered to be dissolved; but, under pretence of contracts formed, and advances made, its dissolution did not in fact take place till the 14th of September 1768, more than *four years and a half* after the positive declaration of the Directors that the traffic should be at once abolished.

Nor is this by any means a solitary instance of disobedience. About the time when the Directors first ordered that the inland trade should be abolished, they had also, in the most express terms, prohibited their servants from receiving any Presents beyond a limited amount;—and, indeed, it is obvious,

that, without some such enactment, the leading natives could possess nothing which might not be extorted from them. On the revolution in favour of Meer Jaffier, about 1,200,000*l.* was received by the army and navy, and different individuals, as donatives; Clive's share alone being 234,000*l.* From Meer Causim, 200,269*l.* were extracted—from Meer Jaffier, on his re-ascending the throne, 437,000*l.*; so that, including large sums which were received under the name of restitution for some previous losses, it was proved that 5,940,498*l.*, or very near *six millions sterling*, had been procured from this family of princes, in the course of a few years,—besides smaller sums which must have escaped detection. Now the orders to execute the covenants against the receipt of presents, arrived on the 24th of January 1765, previously to the formation of a treaty with Nujeem ad Dowla, who was made Nabob on the death of Meer Jaffier: But instead of giving obedience to this necessary mandate, it does not appear that the Governor ever brought the orders under the consideration of the Council, until the arrival of Clive; and, in the mean time, 139,357*l.* were obtained by different members of the government, in the shape of presents (not without suspicion of extortion) from the minister of the puppet who had been decked with the trappings of sovereignty. On Clive's arrival, the covenants were transmitted to the armies and factories, and were immediately executed,—with one remarkable exception. General Carnac, who then commanded the army in the upper provinces, forbore to execute his own, on the pretence that it was dated incorrectly. On his return to Calcutta, however, he executed this same contract without scruple—having, *in the interval*, received a present of two lacs of rupees (23,000*l.*) from the impoverished Emperor of the Moguls!—Such was the manner in which the commands of the Government in England, on the most important measures of their administration, were contemned,—and always with perfect impunity. Similar instances of disobedience meet us indeed at every stage of the history. To enumerate those which occurred while Hastings was Governor-General, would be to give a detailed account of his administration. But we must now proceed to matters of still higher interest.

The examinations of the attempts to remedy the defects which were supposed to exist in the Company as a governing body, and to prevent the recurrence of evils which were known to have arisen in the government of India, form some of the most instructive portions of Mr Mill's work. They are those, too, of which it will be most easy to convey an idea. There are parts of the narrative, which are of superior interest and equal value; but the most valuable branch of historical evidence, consists of circumstances too minute and too multiplied, not to suffer by abridgment, or even by selection.—When the nation first wit-

nessed the great acquisitions of territory in India by the Company, the most extravagant expectations were formed of the wealth which would flow in upon this country. The traditional ideas of Indian riches had taken a strong hold of the imagination of the people; and the prodigious fortunes acquired in Hindostan by a few Englishmen who were of humble rank among their own countrymen, though they had held in their hands the destinies of Asiatic kingdoms, were calculated to keep up the delusion. It was not at that time generally understood, that the inhabitants of India were very low in the most important arts of industry,—and that it was not very probable that a distant dependency, held by force of arms, could be made to yield a surplus revenue, after defraying the expenses of its government. There was a time, however, when some such revenue appeared to exist: For the annual sum of 400,000*l.* was paid by the Company for some years after 1769, as a sort of temporary compromise of the claims of the nation, on the advantages to be derived from the Indian territory. But, in 1772, when they had been favoured by some years of peace, and when, according to the common anticipations, they should have begun to feel symptoms of repletion, rather than of inanition, the Directors were obliged to obtain a loan of 600,000*l.* from the Bank of England; and, immediately after, applied for, and procured from the Minister, a further loan of 1,400,000*l.* of the public money,—declaring, that without such an aid they could not avoid bankruptcy.

This occurrence came upon the public by surprise; and the disappointment which was universally felt, induced the Parliament to underake an inquiry into the state of our Indian dominions, —a duty which they owed to the numerous inhabitants of those countries, but which might have been much longer neglected, if the promised supplies of Indian treasure had not failed. In the course of this inquiry, it was proved, that the changes which had been unproductive to England, had been calamitous to Hindostan; and, among other facts, were brought to view, the various acts of treachery and rapacity, by which the empire had been established. A feeling of indignation was of course excited, which, like the same feeling at all times, did not favour an accurate investigation of causes. It was under the name of the East India Company that acts of oppression, treachery and malversation, had been perpetrated; and it was rather rashly concluded, that to diminish or transfer the powers of government from the Company, would be a sufficient security against similar results in future.

There were, at that time, as there generally have been, two great nostrums for curing all evils in India. The ministers of

the Crown thought, that if a great part of the power of the Company were transferred to the King's servants, all difficulties would vanish; and the Lawyers imagined, that nothing but an extension of the blessings of English law was necessary to secure the happiness of the Hindoos. It was observed, too, that many individuals, returned from India, found their way into the Court of Proprietors, and might exert themselves to screen from punishment those delinquents with whom they had been formerly leagued, or whose impunity might be necessary to their safety.

It was under the prevalence of these ideas, that the first great change was made in the constitution of the Company. By the law passed, in 1773, after great opposition from the Directors and Proprietors, the qualification for a vote in the Court of Proprietors was raised from 500*l.* to 1000*l.* stock. To every proprietor possessed of 3000*l.* two votes; to every one possessed of 6000*l.* three; to every one possessed of 10,000*l.* and upwards, four votes were given. Six of the Directors only were to be reelected annually. In India, the government of Bengal, Bahar, and Orissa, was vested in a Governor-General and four Councillors; and to them the other Presidencies were rendered subordinate. A Supreme Court of Judicature, composed of a Chief-Justice and three other Judges, was established at Calcutta. The Governor-General and Councillors were named by Parliament—that is to say, by the Minister—to hold their offices for five years; after which the patronage was to revert to the Directors. The Judges were to be appointed by the Crown, and were independent of the Company. It was also provided, that every thing in the Company's correspondence from India which related to the civil or military affairs of the government, should be laid before the Ministry.

It is not now necessary to enter into a minute examination of this plan. To raise the amount of the qualification of the Proprietors, was a measure ill adapted to shut out those delinquents, of whose crimes wealth was the sure accompaniment. If there was an appearance of preventing tumult by diminishing the number of votes, 'private cabal and intrigue,' observes a famous Committee of the House of Commons, 'was facilitated 'at least in an equal degree; and it is cabal and corruption, 'rather than disorder and confusion, that are most to be dread-'ed in transacting the affairs of India.' In India, the plan produced confusion and disorder enough. There were more conflicts between the Presidencies, more acts of disobedience to the Directors, more dissensions in the Council, more violence and treachery towards the Native Powers, than at any former period; and, with all this, the debt went on increasing as rapidly as the territories were extended. The plan for the establishment of a Supreme Court of Judicature, produced effects

so remarkable, that it will be useful to give some idea of them, especially as they throw light upon some very prevailing prejudices.

'The grand source of mischief to the natives,' says Mr Mill, 'in the jurisprudential plan, was the unfortunate inattention of its authors to the general principles of law, detached from its accidental and national forms. As the vulgar of every nation think their language the natural one, and all others arbitrary and artificial, so a large mass of Englishmen consider English law as the pure extract of reason, adapted to the exigencies of human nature itself;—ignorant that, for the greater part, it is arbitrary, technical, ill adapted to the general ends which it is intended to serve; that it has more of singularity, and less capacity of adaptation to the state of other nations, than any scheme of law to be found in any other civilized country. Yet this whole system, the British Parliament, or British Ministry, transplanted to Bengal exactly as it stood; and imagined that they had amply provided for the administration of justice in India. And the violent efforts which were made, to bend the rights of the natives to a conformity with the English laws, for the purpose of gratifying a pedantic and mechanical attachment to the arbitrary forms of the Westminster Courts, produced more injustice and oppression, and excited more alarm, than probably was experienced through the whole of its duration, from the imperfection of the previous powers of law and judicature.' II. p. 300.

This Court was empowered to administer in Bengal all the departments of English law. It was a court of Common Law and a court of Equity; a court of Oyer and Terminer and gaol delivery; an Ecclesiastical Court, and a Court of Admiralty. Its jurisdiction extended over all British subjects, and 'to all 'suits, actions, and complaints' *against* any person 'directly 'or indirectly in the service' of the Company, or of any British subject, as well as to such claims by British subjects against natives, as the parties to any contract had agreed, in case of dispute, to submit to its decision. When the state of Bengal at that time is taken into consideration,—the condition in which the Company stood, administering some departments of the government in its own name, leaving others to a nominal Nabob, —the uncertain relation of the Zemindars to the government, some asserting that they were landholders, others that they were merely collectors of revenue,—there will scarcely be found, amongst the speculations of the wildest theorists, any thing so fraught with the most mischievous confusion, as this careless and ambiguous enactment. Yet the authors of it were no doubt persons who prided themselves on being practical men.

The Court was professedly intended for the protection of the natives against European oppression: and one of its first operations was the trial of Nuncomar. The fate of this man is well known. He had accused the Governor-General, Hastings, be-

fore the Council, of receiving presents contrary to law. The Council wished to inquire into the subject; but Mr Hastings protested against all inquiry, and attempted to prosecute his accuser for a conspiracy. The prosecution failed; but, in the mean time, Nuncomar was accused of a forgery committed some years before the establishment of the Supreme Court;—he was tried by that court—convicted on doubtful evidence—and sentenced to death. Forgery is not punishable with death either by the Mahomedan or Hindoo laws. Yet the sentence was carried into execution before the King's pleasure could be known. He was hanged amidst the shrieks of thousands of his countrymen. It is not necessary to inquire whether this act could be *legally* justified; —though it certainly would have been just as legal to have executed any Mahomedan inhabitant of Calcutta for bigamy, under the statute of James I. Such an inquiry would not assist us in forming an estimate of its effect on the Hindoos. It was enough that they saw a man of the highest rank in their society and religion, who had stood forward to inculpate an English ruler, punished with death, for a crime which they had never before seen visited with such a penalty. They knew not for what acts of their life they might not be pursued to their destruction, if they ventured to contend with men who could wield the terrible powers of a law, of which the nature or extent was unknown. Mr Hastings, from that moment, was no more troubled with the accusations of the natives.

Such was the effect of the Supreme Court in the protection of the natives against occasional oppression;—and its effect on the ordinary course of justice was not less extraordinary. The indiscriminate introduction of the English rules as to giving bail and allowing *Habeas Corpus*, produced of themselves the most intolerable abuse and injustice; while the misapplication of the technical doctrine of *Corporations*, was fruitful of other absurdities. The obstruction to the course of justice, indeed, soon became so great, that nothing better occurred to the resident government, than to make it the interest of this Supreme Court virtually to suspend its proceedings. Accordingly, in 1780, a notable plan was devised by Warren Hastings for preventing all collision between the King's and the Company's Courts. He created an office of 7000 or 8000*l.* a year, which was to be held by *the Chief Justice,—at the pleasure of the Governor and Council.* This office, the Chief Justice, Sir Elijah Impey, accepted; and the Supreme Court would probably have become as tranquil as could have been wished, had not this compromise attracted the notice of Parliament, and Sir Elijah been recalled. About the same time, however, an act was passed (1782) to restrain the jurisdiction of the Supreme Court, by some defini-

tions, which, if they had been framed at first, as they might have been by a moderate exercise of reason, instead of being adopted only as the result of a groping experience, would have saved seven years of alarm and disorder.

Of Mr Fox's India bill, by which the power and patronage of India was to be lodged in the hands of seven Commissioners to be named by Parliament, as an attempt to improve the Government of India, Mr Mill has a very low opinion. It is indeed remarkable, if we examine the ablest defence of that measure which has been left us, (Burke's speech on the second reading), that while the Government of India, under the Company, was shown to be one of the worst that had ever existed, there was little attempt to show in what manner the Government of the seven Commissioners to be nominated by Parliament would be better. The main argument used in support of the new plan, was undoubtedly a fallacy. The Government of India, it was said, would be Judicial,—because the rulers were to be removeable only in the same manner in which Judges might be removed, by address of either House of Parliament. But it was not observed, that in whatever degree the duties of Judges were better performed than those of other public functionaries, was in a small degree attributable to their being exempt from the influence of the fear of dismissal, while they were open to the influence of so many other sinister motives;—that it was to be much more attributed to the publicity of their proceedings, which, unless the law be very imperfect and uncertain, makes it impossible for them to act with gross impropriety, without drawing down on themselves the most heavy moral punishment. In how very different a situation would the Commissioners have been, who had to decide in secret, on subjects respecting which there could be no fixed rules to guide them, and who, while they had to control public functionaries appointed by themselves, would never have received the praise of their vigilance and probity, or the discredit of their neglect or connivance, from the people for whose benefit they were appointed to act?

The bill of Mr Fox, however, though its progress and fate form an interesting part of English history, has much less to do with that of India than the plan of his celebrated rival, which has been carried into full effect. The plan of Mr Fox was direct and intelligible; the plan of Mr Pitt was, both as to its object and operations, involved in studied mystery. A Board was established, composed of four members, (besides the Chancellor of the Exchequer and one of the Secretaries of State), the duties of which were defined, or, as Mr Mill says, 'not defined at all, but rather adumbrated, in the following vague and uncertain terms.' They were 'from time to time, to check, su-

perintend, and control, all acts, operations, and concerns which in anywise relate to the Civil and Military Government or Revenues of the territories and possessions of the said United Company in the East Indies.'. . . . 'All correspondence relative to the Government was to be communicated to this Board; all letters from India, as soon as received; all letters, orders, or instructions intended for India, before they were sent' . . . . The most material clause was that by which the Court of Directors were 'bound to yield obedience to every command of the Board, and to send out all orders and instructions to India which it pleased the Board to alter and amend.' In the second edition of the bill, when a sure majority made the Minister bold, a power was added, by which, in cases of secrecy, and cases of urgency, of which the Board itself was to be the judge, the Board of Control might issue and transmit its own orders to India without the inspection of the Directors. . . . 'It is easily understood,' continues Mr Mill, 'that when one body has the power of unlimited command, and another is under the obligation of unlimited obedience, the latter has no power whatsoever, but what the former is pleased to allow. This is the relative position of the Board of Control, and the East India Company. The powers of the Board of Control convert the Company's Courts into agents of its will. The real, the sole governing power of India, is the Board of Control; and it only makes use of the Court of Directors as an instrument, a subordinate office, for the management of details, and the preparation of business for the cognisance of the superior power. That such is the real nature of the machine, is perfectly evident; though hitherto its movements have been generally smooth; the Directors having ventured on nothing disagreeable to the Government, and the trouble of regulating all the business of detail being readily left to them.'

Mr Mill then examines in what manner that part of the business of governing India in which the Board of Control really takes a share, is affected by their interference. He considers that the President, the only efficient member of the Board of Control, appointed as he is by Parliamentary influence, is not very likely, in appropriate talent or knowledge, to be superior to the Court of Directors. That the Board have no motives to application, is evident; and it is just as plain, that the Court of Directors must be discouraged from a labourious consideration of the measures of Government, when all the fruits of their knowledge and thought may be rejected by the mere caprice of the individual President. As to the increase of probity which is to be expected from the operation of this plan, he observes, that the sanction of public opinion, which would operate upon

either the Directors or the Board of Control, separately taken, must be infinitely diminished when these bodies act together, and, by sharing, go far to annihilate the responsibility;—while, if we consider them separately, the President of the Board of Control is much less exposed to public opinion than the Court of Directors formerly were; because, being considered as a mere instrument of the Minister, he can be little regarded as the object of individual praise or censure. Neither the Directors nor the Board, it may be admitted, have any direct interest in the misgovernment of India. The indirect interest to which they may be exposed, are, the love of ease, and the temptations to abuse patronage and connive at delinquency. In the conduct of the Directors, with respect to patronage, Mr Mill finds much to praise. Though they are no doubt guided by their private convenience in the appointment of the youths destined for the different departments; yet all of their nominees go out in the lowest situations, and can rise only by degrees; and, before they are of sufficient age or standing in the service to occupy the stations in which they can do much mischief, the Directors, by whom they have been sent out, have generally retired from the direction. But Parliamentary interest creates a stronger motive in the Board of Control, both for the abuse of patronage, and a connivance at delinquency, than any which can exist among the Directors; and as the men in the highest stations in India are now sure to be appointed on account of their close union with the Ministry, they are just as sure to be screened from exposure and punishment. As to the notion of the two Bodies checking each other by their tendency to opposite malversations, Mr Mill justly observes, that the common result of all such contrivances is, that the two parties speedily fall upon a compromise, under which the one is allowed freely to follow out its own interests, on condition of its extending a similar indulgence to the other. This is the effect of the greater part of the checks upon misgovernment, which have ever been established in the world; and it is a law, from which the Board of Control and the Court of Directors form most assuredly no exception. The most important consideration of all, however, in comparing the old with this new scheme of government, is, that so long as the Indian management was independent of the Minister, he had no interest in hiding its defects—but might often acquire popularity by disclosing them; while it is now his interest to prevent inspection, to lull suspicion asleep, and to ward off the first movements towards inquiry.

It was provided by the same bill, that no act of the Directors which had received the approbation of the Board of Control, should be affected by any proceeding of the Court of Proprie-

tors. It was also ordained, that the Court of Directors should choose a committee of not more than three of their body, under the name of a Committee of Secrecy, who were to transmit the orders which the Board of Control might frame, and which required secrecy, without communicating them to the Court of Directors at large—and receive the answers to these orders under the same concealment;—a regulation which enables the Board of Control, at any time, to annihilate the Court of Directors, as well as the Court of Proprietors.

The *early* history of the Board of Control affords the best opportunities for judging of its merits: For the Court of Directors and the Board *now* understand one another too well to expose their mutual defects. But, for some time after its formation, the two Bodies had not found their proper level; and the disclosures then made, confirm the speculations of Mr Mill. In 1785, the Board of Control compelled the Court of Directors, in opposition to their remonstrances, and in defiance of an act of Parliament, to set aside a revenue of 480,000*l.* a year to discharge, without inquiry, some claims on the Nabob of Arcot by Europeans, of which there is the best reason to believe that the greater part were fraudulent;—for, upon similar claims which were afterwards submitted to adjudication, it was found that only 130,000*l.* should be awarded. The motive of this profligate misapplication of the Company's money, could not be mistaken. The principal claimants, among whom was the celebrated Paul Benfield, had been jobbers on an unusually large scale in seats in the House of Commons, and had supported the party of the Minister with the whole of their ill-gotten influence. Notwithstanding the scrutiny to which the acts of the Directors had been exposed, it is impossible to find among them anything to match this proceeding of those who had been appointed to control and purify their administration, and to look down on them with impartial eyes from a height far above the clouds and storms of Indian influence and Indian intrigues.

But the obstacles arising from improbity and negligence at home, or even from the sinister interests of the agents of the Company abroad, are not the only difficulties which occur in the government of India. Much of the misery of the people has arisen from an ignorance of the condition of that country, and from a very imperfect acquaintance with the general principles of government, on the part of those who have honestly endeavoured to ameliorate it. Changes without number have been made in the mode of collecting the Revenue, and administering Justice in our territories, with a success lamentably contrasted with the zeal and confidence with which they were undertaken.

It would be impossible for us, within our limits, to give an idea of all of these changes; but Mr Mill's examination of the financial and judicial reforms of Lord Cornwallis, the most boasted and most extensive of all these measures, must not be suffered to pass unnoticed. The result of former experiments upon those subjects may be taken from his Lordship's words. 'I 'am sorry,' says he to the Court of Directors, 'to be obliged 'to say, that agriculture and internal commerce have, for many 'years, been *gradually declining;* and that, at present, except-'ing the class of shrofs and banyans' (the money-changers and the black agents of Europeans), 'who reside almost entirely in 'great towns, the inhabitants of these provinces are *advancing* '*hastily to a general state of poverty and wretchedness.*—In this 'description I must even include almost every zemindar in the 'Company's territories; which, though it may have been part-'ly occasioned by their own indolence and extravagance, I am 'afraid must also be, in great measure, attributed to the defects 'of our former system of management.'

In India, nearly the whole of the revenue has at all times been derived from the land. Originally, the crops were divided in certain proportions between the cultivator and the government, which took its share in kind; but, before this division took place, certain deductions were made. The country was divided into parishes or townships, which constituted little communities, having, each within itself, a species of government. There was in each of them a *potail*, or head man, a registrar of the accounts, ministers of religion and education, and a variety of handicraftsmen and labourers. From the produce of the land a certain customary share was taken for each of these official persons, before the division between the ryot or cultivator, and the government, took place. Dr Buchanan, in his Journey through Mysore, describing the distribution of the produce in this manner, estimates the deductions made for the village officers at 5¼ per cent. Of the remainder, 10 per cent was paid to the collector as his wages; and the heap thus reduced by 15¾ per cent., was then divided into halves between the king and the cultivator. This account of the distribution of the produce of the soil, which will be found to accord pretty nearly with the general practice, though in some cases the share left to the cultivator was much less than that which was taken by the king, will show that the sovereign, deriving as he did from the land the greatest profit, was truly the proprietor of the soil, if there could be said to be any proprietor; and all the Europeans who visited the East before the Zemindarry controversy was excited, concur in this opinion. It is better, however, not to apply European terms to a state of things entirely different from

any of which we have had experience in Europe. If the rights of the different classes of inhabitants be accurately ascertained, the question, who is to be called the proprietor, is as unimportant in all cases, as it is in this instance absurd. Mr Mill, we think, does not enough attend to the confusion introduced by the use of inapplicable terms. The sovereign derived as large a share of the produce as could in general be paid as rent, if European practice had prevailed; the ryot or cultivator retained as little as any tenant would have been allowed to retain; but his possession was hereditary, and he had the complete power of alienation. The revenue agents, without descending to the annual assessment of each ryot, often levied a given sum on each village (or parish), and left the villagers to settle their quotas among themselves.

When the Mogul government extended itself over the greater part of the Indian continent, the sovereigns, impatient of details, rendered the revenue agents stationary, and made them responsible for the revenues of their districts, on which they received a per centage. From the convenience of nominating to the office persons well acquainted with the resources of the district, as the sons of preceding collectors were likely to be, and from the general habit of Indian monarchs, the collectorships became hereditary in the families of their holders. The Mogul government, which was in many respects considerate and humane, seldom displaced those officers without some serious cause of displeasure; and even when it superseded them, generally made some allowance to preserve them from degradation or want. To these collectors the Persian name of Zemindar had been given; and they had been liberally invested with all the powers necessary to enforce payment. They were allowed to keep up a military force, by which they might extort the taxes from the refractory; and the whole business of judicature and police in their districts, with the exception of that of inflicting the highest punishments, devolved upon them. Armed with this authority, they in general took from the ryots, not merely the legal assessment, but everything beyond what was necessary to keep them in existence; and often desolated whole districts by their oppressions. Yet by law they were only entitled to allowances amounting to about 10 per cent.; and, to restrain them in their exactions, was one of the duties by which, when effectually performed, an Indian sovereign acquired the greatest reputation.

To Europeans who saw the Zemindars living in great splendour, and enjoying the highest degree of authority and estimation, it seemed unreasonable to consider them as mere collectors of revenue. Some Englishmen, of authority and talents, who saw the wanton manner in which the rights of these individuals

were sported with by Hastings, attempted to excite commiseration for them, by giving them names, most closely allied in English ears with respectability and property. They were called by Burke, and by Committees of the House of Commons,—the nobility and gentry,—the great landholders and freeholders of India; and were represented as holding the country as tenants *in capite*, having the ryots as their subordinate tenants. The creation or preservation of a landed aristocracy, by dint of the associations which these words excited, grew to be an object of first-rate importance to the English rulers: and Lord Cornwallis, under the instructions of the Directors, made a settlement with the Zemindars for the revenues of their districts; and, in 1793, they were declared hereditary proprietors of the soil, upon payment, as a land-tax not to be enhanced, of the sum then assessed. In the haste to accomplish this darling object, many important inquiries were neglected. Of the sum which the country could bear to pay, the government had no better grounds to judge, than the amount actually levied on the average of some of the preceding years. As to the ryots, they were left to the Zemindar, with a mere general recommendation, that, in the sum demanded, he should be guided by the custom of the place. One security only was thought of for them. The Zemindar was to give them a *pattah*, or lease, containing the terms which he imposed; and on those terms, their possession also was to be as permanent as his own. The settlement with the Zemindars, which was permanently fixed, had, in the first instance, been made for ten years only: but, at the time that it was first proclaimed (in 1789), Lord Cornwallis declared his resolution of using all his influence with the Court of Directors to make it perpetual. Mr Shore (since Lord Teignmouth), on whom Lord Cornwallis had chiefly relied for information respecting the revenue, opposed this determination of the Governor-General, and urged the deficiency of knowledge under which the matter had been arranged. Though a great advocate of the Zemindarry system, he alleged, that abuses existed in the mode of dealing, on the part of the Zemindars, towards the ryots, which no sufficient expedients had been employed to correct; and he desired that an opportunity might be left of introducing the improvements which ten years' experience might suggest. In the opinion of Lord Cornwallis, however, the advantages of a permanent settlement outweighed all inconveniences; and though the rights of the ryots, and some other classes, had not been enough attended to, yet as the Zemindars, now become proprietors, had an interest in the improvement of the country, they would not fail, he thought, to deal mildly and equitably towards their tenants.

In this calculation of Lord Cornwallis, there were some notable blunders. Mr Mill truly observes, that while, at every step which they took, Lord Cornwallis and the Directors disclaimed being guided by 'abstract theories drawn from other countries, and applicable to a different state of things,' it was only by an imperfect or misapplied theory, derived from the case of their own country, that they were truly directed. It was undoubtedly true, that the highest efforts for the improvement of the land, can be expected from none but proprietors. But it is not from all sorts of proprietors that these efforts are to be looked for. Where ignorance prevails, where the possessions are large, and where the landlord has great power over the immediate cultivators, improvement is not to be expected merely because the land is private property. In Russia and in Poland, the soil has been for centuries private property: but how slow is the progress of improvement! Under the Zemindarry settlement, all these causes operated with full force. The possessions were extremely large, and the state of ignorance of the people was most gross. To a man who enjoys large possessions, the slow results of improvements cannot form an object powerfully to affect the mind. In all states, and more especially in a rude and ignorant state of society, the love of power is much more prevalent among those already raised above want, than the love of money. To insure the dependence of the tenantry is, even now among the great landlords in England, an object much more at heart than to enhance the value of their estates. But if we find, even in a few instances, gentlemen in England, by refusing to grant leases which are as beneficial to themselves as to the tenants, sacrificing improvement to the small quantity of arbitrary power which the law allows them to possess, how much more frequently must we expect to meet with the same spirit among persons having the habits and education of Zemindars in Hindostan? These, however, are trifling objections; for the very basis of the system was fallacious—and the two parts of the plan were opposed to each other in irreconcileable contradiction. Fixed *pattahs*, or perpetual leases, were to be given to the ryot;—the rent was never to be increased. Yet it was expected that the Zemindar, under these circumstances, would have an interest in the improvement of the soil; and much was calculated on from his paternal care. Yet it was evident, as an Indian authority * remarks, that, in such a situation, it might be 'the Zemindar's interest, not to assist, 'but to ruin the ryot, that he might eject him from his right of

* Mr Thackeray's Memoir, April 1806;—5th Report of Committee of House of Commons, 1810.

'occupancy, and put in some one else on a raised rent; which 'will often be his interest as the country thrives and labour 'gets cheap.'

Lord Cornwallis also carried into effect a complete change in the Judicial department of the Government. The Directors, in 1786, free as they boasted from the influence of 'abstract theories,' had established the same persons as collectors of the revenue, Judges in the Duannee Adauluts, and heads of the police, each in his district. Lord Cornwallis was not blind to the abuses which might grow out of this system; and he devised the following plan of judicature. In each district (Zillah), and in each considerable city, a Zillah or city court was established. A servant of the Company, of a higher rank than the collector, was the judge; and he had a register, and one or more assistants, appointed from among the younger servants of the Company. Each court was provided with a native qualified to expound the Hindu or Mahomedan law, in cases which turned upon either of those codes; and four courts of appeal were established at Patna, Dacca, Moorshedabad, and the neighbourhood of Calcutta.

In the establishment of this system, and indeed in the whole reforms projected at this period, the best intentions seem to have prevailed. But these intentions were counteracted by the effects of an English prejudice. The mode of proceeding in Hindostan, before the native courts, had been simple, rational, and entirely free from technical impediments. The plaintiff presented himself; told his case in plain language; and the judge proceeded to inquire, in the manner which seemed to him best calculated to elicit the truth. Instead of this, the forms of the English law were substituted; and the consequence was, that justice could not be obtained, in any case, where the sum at stake was not sufficient to defray the expense of an advocate or *Vakeel:* and the whole technical apparatus of an English suit was, with one remarkable exception, enjoined as indispensable. The courts were ordered to proceed in a summary manner in Revenue causes. The Government saw that speedy justice was necessary to itself; but it established another sort of justice for its subjects.

Before inquiring into the practical consequences of these plans, we should call to mind the state in which Bengal was, when they were first contemplated, in order to estimate the sum total of the effect of our government on the people of India. We have already quoted the declaration of Lord Cornwallis, that the inhabitants of these provinces were 'advancing hastily 'to a general state of poverty and wretchedness.' On another occasion he says, 'I may safely assert, that one-third of the Com-

'pany's territory in Hindostan is now a jungle, inhabited only 'by wild beasts.' * In his address to the Court of Directors, dated November 17th, 1790, he says, 'Your possessions in this 'country cannot be said to be well governed, nor the lives and 'property of your subjects to be secure, until the shocking abuses 'and the wretched administration of justice in the fougidarry '(criminal) department can be corrected.' Yet at that time, as at almost every other, the unexampled prosperity of our Indian territories was constantly held forth in Parliament as matter of congratulation. We may first examine what became of the project for establishing a landed aristocracy in the persons of the Zemindars; which will not long detain us. In default of payment of the tax, a part of the land of the Zemindars was put up to sale, to discharge the arrears to the Government. Against the Zemindars, therefore, the Government had a speedy remedy. But, against the ryots, our new feudal chiefs had to proceed through the tedious forms of the courts. The necessity of selling the lands immediately began, and proceeded with extraordinary rapidity. In the year 1796, the land advertised for sale comprehended a rent-roll of 2,870,061 rupees, or nearly one-tenth of Bengal, Bahar, and Orissa: † And thus, in one year, a tenth part of the permanent possessions of the new-made aristocracy, from whose lasting interest in their property were to be derived security and protection to the cultivator, and strength and harmony to the whole State, was swept away. By the progress of this operation, the whole class of the ancient Zemindars was speedily destroyed. In 1802, nine years after the Zemindars had been made permanent, Sir Henry Strachey, in his answer to a list of interrogatories which had been circulated to the Judges, stated, that 'an *almost universal* destruction' had overtaken the Zemindars; and that, if *any* survived, they were, 'according to the notions of the Company's servants, reduced 'to the same condition, and placed at an equal distance from 'their masters, as their lowest ryots.' In the same year the collector of Midnapore says,—

'All the Zemindars with whom I have ever had any communication, in this and in other districts, have but one sentiment respecting the rules at present in force for the collection of the public revenue. They all say, that such a harsh and oppressive system was never before resorted to in this country;—that the custom of imprisoning landholders for arrears of revenue, was, in comparison, mild and indulgent to them;—that though it was, no doubt, the intention of

* Minute, 18th September 1789. Fifth Report, *ut supra.*

† The total assessment of these provinces was 30,254,563 rupees, or 3,509,539*l.*

Government to confer an important benefit on them by abolishing this custom, it has been found, by melancholy experience, that the system of sales and attachments, which has been substituted for it, has, in the course of a very few years, reduced most of the great Zemindars in Bengal to distress and beggary, and produced a greater change in the landed property of Bengal than has perhaps ever happened, in the same space of time, in any age or country, by the mere effect of internal regulations.'

The decisions of the courts, impeded as they were by the tedious forms prescribed to them, were so slow, that, in the space of two years, the accumulation of undecided causes threatened to arrest the course of justice. In the district of Burdwan alone, the suits pending at one time exceeded 30,000; and, by computation upon the established pace of the court, it appeared that no new candidate for justice could expect to obtain a decision during the ordinary period of life. The effects of such a state of things, in a country where nothing but the arm of the law can obtain his rents for the landlord, or preserve the tenant from exaction and oppression, according as each may happen to be the stronger party, may be easily imagined. The state of the courts of justice accelerated the destruction of the Zemindars.

The condition of the ryots, under the new regulations, it is not so easy to ascertain; but there is every reason to believe, from incidental circumstances, and the casual declarations of the servants of the Company, that their depression was less striking than that of the Zemindars, only because they were previously much nearer the lowest level. When their rights were sacrified to the establishment of the Zemindars as landholders, it was argued that the permanent interest of their landlords in the improvement of the property, would compensate them for this loss. We have shown, that where *pattahs* were given, the Zemindar had no such interest; and it has been shown by the fact, that the permanency of the tenures of the Zemindars has not existed. It does not appear that *pattahs* were generally given; and when they were given, on the sale of an estate for arrears, they were all cancelled. The Zemindar was in the habit of letting his district to one great farmer, and he to middlemen, to whose exactions upon the ryots there was no restriction. 'The interchange of engagements between the parties,' says Mr Thompson, judge and magistrate of Burdwan, 'with few exceptions, 'extends no further than the Zemindar's farmer, who is here 'called the sudder (or head) farmer, and to those among whom 'he subdivides his farm in portions.' An engagement between 'the latter and the cultivator, or head of a village, is scarce-

'ly known, except the general one to receive and pay, agree-'able to past and preceding years.' Sir Henry Strachey observes, 'The ryots are not, in my opinion, well protected by 'the revenue laws, nor can they obtain effectual redress by pro-'secuting, particularly for exaction and dispossession....The 'delay and expense attending a lawsuit are intolerable, in cases 'where the suitor complains, which almost invariably happens, 'that he has been deprived of all his property.' In 1799, the Zemindars were empowered to recover their rent by attachments. On this, the same intelligent Judge remarks—'It was, 'I believe, the design of Government, (a very reasonable and 'liberal design, in my opinion), to enable the Zemindars to col-'lect their just demands of rent with punctuality, and without 'expense: And I think it would have been just and consi-'derate, at the same time, to have facilitated to the ryots the 'means of obtaining redress against extortioners.' But it did not suit the prejudices or the finances of the Bengal government to make the administration of justice cheap and expeditious to all. He adds, that 'exaction of revenue is now, and I presume al-'ways was, the most prevailing crime throughout the country;' and, adverting to the impossibility of the ryots procuring redress, from the expense and delay of the law, he says, 'The 'laws regarding attachments are greatly abused, and are pro-'ductive of extreme oppression.'

We have already given a glimpse of the effects of the judicial reforms in accumulating cases beyond the powers of the courts to determine. Instead of meeting this monstrous evil, either by a multiplication of courts, or a simplification of their forms, the Government has thought it better to discourage litigation, by imposing taxes on the institution of every suit, and on the proceedings in the course of it. This plan, which was contrived in 1795, is still in favour with the rulers of Bengal; and, in 1810, obtained the approbation of a committee of the House of Commons. 'Nothing,' Mr Mill observes, 'is more 'easy than to lessen the business of the courts of law, or, in-'deed, to produce its annihilation. What are the means? 'The most obvious in the world—denial of justice. Decree, 'that no person whatsoever, who is less than six feet high, shall 'be admitted to sue in a court of justice, and you will reduce 'the business to a very manageable quantity: Decree, that no 'man who is less than eight, and you reduce it to nothing. A 'man's stature is surely as good a test to judge by, whether 'he has received an injury, as his purse.' Mr Mill has examined this expedient with his usual acuteness, and reasoned with great force on the absurdity of supposing that it is the dishonest litigant alone, or chiefly, who is deterred by the factiti-

ous expense of legal proceedings; and he clearly points out the encouragement which it affords to oppression. His reasoning claims attention, because it is universally applicable. But, to the purpose before us, it is also important to observe, that in some countries the expedient which drives the poor from courts of justice, may be less felt as a grievance, from the sympathy which exists between the poor and the rich, and the moral checks which public feeling provides against oppression,—but that in India none of these palliatives operate; and it is seen in its naked mischievousness, as a plan to deprive of the chief benefits of civil society, those who stand most in need of its protection.

But the matter unfortunately is not a subject of speculation, but of experience. For the honour of the British character, there have not been wanting in India, Judges, from whose enlightened minds the Bengal government might have derived instruction, and from whom no Legislature need have been ashamed to ask it. They have had the means of observing the effect of this expedient, and the honesty to declare it. Sir Henry Strachey observes, that 'exaction of revenue,' which he has described as the prevailing crime in Hindostan, and against which the unhappy peasant can only seek redress in a court of justice, 'is peculiarly difficult of proof.' The production of many witnesses, and many documents, is therefore necessary; but, on the production of each of these, a tax is levied on the plaintiff. 'It is not the original fee,' he says, 'on the institution 'of the suit, but the subsequent charges on exhibits and on 'witnesses, that appear to me intolerable. I have often seen 'a suitor, when stripped of his last rupee, and called upon for 'the fee on a document, produce in court a silver ring, or other 'trinket, and beg that it might be received as a pledge; and, 'after all, perhaps cast for want of money to bring proof.' As to the pretence, that the expense checks litigiousness, he asserts, that scarcely in five cases out of a hundred are the demands of the plaintiff false or frivolous; and he observes, that 'a man is disabled from sustaining expense in proportion as he 'is poor, and not in proportion as he is litigious.'—'It is my 'opinion,' he says, 'that the nearer we approach to the rule, 'of granting to all speedy justice without any expense what-'ever, the nearer we shall, in our judicial system, approach 'perfection. It will not, I imagine, be denied, that it is desir-'able the least tedious and least expensive mode of obtaining 'redress should be open, where an injury has really been suf-'fered. When a poor man has been oppressed, he should be 'freed from trouble and expense, and assisted and encouraged

'as much as possible in prosecuting his complaint. He is not, 'in such a situation, a fair object for taxation. It does not 'become the ruling powers to add to his misfortune, by levy- 'ing impositions upon him.' The Judges of the Court of Appeal at Moorshedabad, (Mr Colebrooke, Mr Pattle, and Mr Roche), in their Report in 1802, say, 'The increased expense 'of lawsuits has never been found to check litigiousness: On 'the contrary, it has been generally observed, that litigiousness 'is encouraged thereby; in the hope that the certainty of the 'expense, added to the uncertainty of the result, might deter 'parties from defending even just rights. On comparing the 'half-yearly reports of the several *adauluts* in this division, it 'does not appear that the number of suits filed, since the esta- 'blishment of the fees and stamp-duties, differs much from the 'number filed in a similar period previous thereto.' This expedient failed, therefore, even of producing the effect of rendering the quantity of business manageable. In spite of repeated augmentations of law expenses, the Judges have been quite unsuccessful in their endeavours to keep down the number of causes. In 1803 the Directors remarked, in one of their despatches, 'on the almost incredible number of causes undecided;' that 'to judge by analogy of the courts of Europe, they would 'be induced to think so great an arrear could scarcely ever 'come to a hearing:' And at so late a period as March 1812, notwithstanding some palliatives which had been adopted, they say—'We should be sorry, that, from the accumulation of such 'arrears, there should ever be room to raise a question, whe- 'ther it were better to leave the natives to their own arbitrary 'and precipitate tribunals, than to harass their feelings, and in- 'jure their property, by an endless procrastination of their suits, 'under the pretence of more deliberate justice.'

As to the very obvious remedy of increasing the number of courts, this was of course suggested in the Committee of the House of Commons; but the remark which they made on it (in 1812) will be instructive to those, if any such yet remain, who, in defiance of reason and of 60 years' experience, look forward to the receipt of a surplus revenue from India. 'An aug- 'mentation,' they say, 'of the number of European Judges 'adequate to the purpose required, would be attended with an 'augmentation of charge which *the state of the finances* is not 'calculated to bear; and the same objection occurs to the ap- 'pointment of assistant Judges.' We have seen that the revenue actually levied was so great, in comparison of the ability of the country to pay it, that the means adopted to enforce payment involved the whole body of the Zemindars in ruin; yet even this revenue is insufficient, under the expensive system of

administration which we have established, to enable us to perform to the natives the first duty of rulers—the distribution of justice.

The effects of Lord Cornwallis's reforms in penal judicature, and in the police, have not been more fortunate. In considering the increase or diminution of crimes, the tests of the merits of a reform of criminal judicature and police, the attention is naturally drawn, in the first place, to those offences which most immediately threaten the security of property and life. In Hindostan, bands of robbers, called, in the language of the country, *decoits*, combined in numbers which it is impossible for any personal strength or courage to resist; commit crimes, in comparison of which, all other violations of the law shrink into insignificance. Mr Dowdeswell, the secretary to the Government, in a Report which he framed in 1809, on the general state of the police of Bengal, says,

'Were I to enumerate only a thousandth part of the atrocities of the *decoits*, and of the consequent sufferings of the people; and were I to soften that recital in every mode which language would permit, I should still despair of obtaining credit, solely on my own authority, for the accuracy of the narrative.....Robbery, rape, and even murder itself, are not the worst figures in this horrid and disgusting picture. An expedient of common occurrence with the decoits, merely to induce a confession of property supposed to be concealed, is, to burn the proprietor with straw or torches, until he discloses the property, or perishes in the flames; and, when they are actuated by a spirit of revenge against individuals, worse cruelties, if worse can be, are perpetrated by those remorseless criminals. If the information obtained is not extremely erroneous, the offender, hereafter noticed, himself committed *fifteen murders* in *nineteen days*; and volumes might be filled with the atrocities of the decoits, every line of which would make the blood run cold with horror.'

Mr Dowdeswell inserts the abstract of some trials, which completely establish that his general expressions are not exaggerated. The species of robbery which is committed by these bands, and so often accompanied with their horrid cruelties, obtains the name of *decoity*. 'This crime,' Sir Henry Strachey, in his Report as Judge of Circuit of Calcutta, in 1802, says, 'has, I believe, *increased greatly* since the British administration of justice.' The convictions, he states, though prodigiously numerous, (for in the six stations of that division there were *four thousand* convicts confined, of whom nine-tenths are probably *decoits*), were very few in proportion to the number of those guilty of the crime. The Judge of Circuit of the Rajeshakye division says, in a letter to the Register of the Nizamut Adaulut,—

'That *decoity* is very prevalent in Rajeshakye, has often been stat-

ed. But if its extent were known, if the scenes of horror, the murders, the burnings, the excessive cruelties, which are continually perpetrated here, were properly represented to Government, I am confident that some measures would be adopted to remedy the evil. . . . It cannot be denied, that, in point of fact, there is no security for persons or property. *Such is the state of things which prevails in most of the zillahs* (districts) *in Bengal.* But in this it is much worse than in any other I have seen. I am fully persuaded that no civilized country ever had so bad a police as Rajeshakye has at present.'

Besides this overbearing and alarming crime, which has increased to such a degree as to draw from the Judges themselves the declaration, that there is no security for persons or property in that part of India which has been longest subject to the English power, all other offences are far from having diminished. 'Since the year 1793,' says Sir Henry Strachey, '*all crimes are increased;* and I think most crimes are still increasing. The present increase of crimes may perhaps be doubtful; but no one, I think, can deny, that immediately after 1793, (the year in which the reforms were effected), during five or six years, it was most manifest and rapid; and that no considerable diminution has taken place.' Murders from the slightest motives—the murder of children for the sake of their ornaments, for instance—and the most barefaced perjuries, are the offences which most characterize the people. Not only have tangible crimes increased, but manners have suffered. Sir H. Strachey—the judge and magistrate of Burdwan—and the magistrates of the twenty-four pergunnahs, concur in stating, that the morals of the people have been deteriorated, rather than improved, since the introduction of the British system.

While immorality and crimes increase, and, most of all, those crimes which are accompanied with violence, it will be suspected that the plan of police is not very efficient. The darogahs who had been established by the new system, are allowed by the Committee of the House of Commons (1812) to have been not less corrupt, and much less efficient, than their predecessors the servants of the Zemindars. The Secretary of the Government of Bengal, whose Report we have before quoted, describes 'their avarice and addiction to every species of extortion,' as vices 'which render them a pest to the country.' While wealthy criminals can always purchase impunity,—it appears, by the addresses of the Judges, that the practice of extorting confessions is extremely prevalent—a practice facilitated by the extreme ignorance of the people. In 1807, the Zemindars and other principal inhabitants were vested with the same authority for the apprehension of offenders as the darogahs possessed; but from this plan so much mischief was found to

result, that in 1810 it was abolished. Police spies and superintendants were established in 1808; but they, too, were found to engage as largely as the darogahs in the business of extortion; and, like their brethren in other places, to support imaginary crimes by false accusations, for the sake of obtaining the head-money which was given as the conviction of some species of offenders. In short, whatever class of natives was invested with the powers of the police, or by what names the officers were designated, being found utterly void of all principles of morality or honour, they only added to the number of the plunderers whom they were employed to repress.

Such are the melancholy results of the attempts to improve the condition of Bengal, described not by inimical observers or severe judges, but by the magistrates, who, from the prejudices of their situation, would be inclined to behold every indication of improvement under the auspices of a British administration with a favourable eye. Every person of rank and property reduced to the lowest condition,—the cultivator exposed to intolerable exaction,—the Courts of Justice virtually closed against suitors,—the most terrible of crimes increased to that extent that no security for person or property can be said to exist,—minor offences not diminished,—dissoluteness of morals become more general,—and a police, of which the vices render it, instead of a benefit, a pest to the country;—these, according to the highest authorities, are the characteristics of that part of India, where our reforms have had the longest time to operate.

To this picture must those open their eyes, who have been consoling themselves, on every act of aggression and conquest, however unjust in itself, with the reflection, that the extension of the British power was an extension of benefits and of security to the natives. One advantage has certainly attended the introduction of an English administration: The direct oppression which the superiors exercised, as of right, over their inferiors, is lessened; but that oppression was much less terrible than the increased acts of violence and cruelty of the unlicensed plunderers who were kept in awe by the vigilance of the former rulers; nor can the occasional acts of violence, on the part of the native governments towards its higher subjects, bear a comparison with those regulations, which have produced a greater change in the landed property than was ever known before, and in a few years reduced the majority of the Zemindars to distress and beggary. Change must always be in itself an evil:—but in what instance has so great a change been effected with so little advantage to counterbalance it? We can do little more than press these facts on the attention of our readers, and recommend the acute examination of the causes

of them in the volumes before us, to those who feel for the welfare of the millions of Hindoos for whose happiness we are accountable,—and to those who by their station or talents have the means of promoting it.

A good administration of Justice, and the establishment of the rights of Property, on a judicious and permanent plan, are perhaps the only political blessings which the Hindoos are, in their present state, capable of receiving;—and they are blessings, which, if secured to the whole of our dominions in the East, would entitle us to be ranked among the greatest benefactors of the human kind. But it is not, as we have seen, enough to have the best intentions. The establishment of a good administration of justice, in particular, is attended with appalling difficulties, even in addition to those which have been created by the prejudices of the rulers. Two of them only we shall advert to;—the want of a higher and middle class in the society, on whose probity and intelligence the Government might rely for cooperation,—and the want of that knowledge among the English Magistrates which might enable them to discover truth or falsehood in the statements of the natives. Both these circumstances are adverted to, and deplored by many of the most intelligent of the Magistrates whom we have already quoted; and they speak with a kind of hopelessness of the difficulty of detecting perjury in its ever-varying forms, or of finding any class to whom the powers of police can be entrusted. With the *moral* language of the natives, if we may so express it, the Judges confess that they have never been able to make themselves acquainted; and they declare, that the common rules of evidence would, in India, be inapplicable. 'The honest men,' says one of them, 'as well as the rogues, are perjured.' Witnesses on the part of a prosecution swear to facts in themselves utterly incredible, for the purpose of fully convicting the accused, when the simple truth would have been sufficient. 'Every day's experience and reflection on the minds and manners of the natives serve,' says he, 'to increase my doubts about our capacity to discover truth among them.' * Lord Teignmouth, too, has observed, that the civil servants of the Company, enclosed in their offices from the time of their arrival in India, have neither leisure nor opportunity to become acquainted with a people so widely differing from ourselves. 'What Judge,' says Sir Henry Strachey, 'can distinguish the exact truth, among the numerous inconsistencies of the natives he examines? How often do those inconsistencies proceed

* The Judge of Circuit, Rajeshakye Division, 1808. 5th Report, p. 389.

from causes very different from those suspected by us? How often from simplicity, fear, embarrassment, in the witness? How often from our own ignorance and impatience?—We cannot study the genius of the people in its own sphere of action. We know little of their domestic life; their knowledge, conversation, amusements; their trades and castes; or any of those national and individual characteristics which are essential to a complete knowledge of them. Every day affords us examples of something new and surprising; and we have no principle to guide us in the investigation of facts, except an extreme diffidence of our opinion,—a consciousness of inability to judge of what is probable or improbable.' Their declarations as to the want of any class to whom the business of police can be entrusted, are equally strong and explicit. After quoting some of their opinions, Mr Mill observes—

'Such is the extreme difficulty of distributing justice to a people, without the aid of the people themselves! Such, at the same time, is the utter impracticability, under the present education, circumstances and character of the people of India, of deriving from them the aid which is required! Without a tolerable administration of justice, however, which the people of India are so far from enjoying, every man will acknowledge, that all attempts to improve either their circumstances or their character, must be attended with disappointment. What, then, is the inference? Are the government and the people to go on for ever in their present deplorable situation; the people suffering all the evils of a state of anarchy—the government struggling with eagerness to help them, but in vain?

'If it were possible for the English government to learn wisdom by experience, which governments rarely do, it might at last see, with regret, some of the effects of that illiberal, cowardly, and short-sighted policy, under which it has taken the most solicitous precautions to prevent the settlement of Englishmen; trembling, forsooth, lest Englishmen, if allowed to settle in India, should detest and cast off its yoke! The most experienced persons in the government of India describe, what to them appears the difficulty, almost or altogether insuperable, of affording protection either to person or property in that country, without the assistance of persons of the requisite moral and intellectual qualifications, rooted in the country, and distributed over it in every part. They unite in declaring, that there is no class in India who possess these qualifications; that the powers necessary for an efficient police cannot be entrusted to the Zemindars, without ensuring all the evils of a gross and barbarous despotism: And they speak with admiration of the assistance rendered to Government by the gentlemen distributed in every part of England. Is it possible, then, to avoid seeing the inestimable services which might have been derived, in this great exigency, from a body of English gentlemen, who, if they had been encouraged to settle as owners of land, and as manufacturers and merchants, would at this time have

been distributed in great numbers in India? Not only would they have possessed the requisite moral and intellectual qualifications—a thing of inestimable value:—they would have possessed other advantages of the highest importance.' ....

'It is impossible to reflect upon the situation of English gentlemen, settled in the country as proprietors of land and as manufacturers, without perceiving how advantageously they would be situated for acquiring that knowledge of the natives, in which the Company's servants are proved to be so defective; and for giving that aid in the administration of justice, without which a good administration is not to be attained. Such men would be forced into an intimate intercourse with the natives, whence, under the necessity of employing them, and of transacting and conversing with them in almost all the relations of life, an intimate knowledge would arise. They would have a local influence of great efficacy. They would be useful, beyond all calculation, in maintaining order in a wide circle around them, among a people in such a state of society as that at present found in Bengal.' III. p. 336.

We cannot conceive anything more discreditable to a government, than to place itself in opposition to a measure conducive, and almost essential to the prosperity of a great empire, merely because it would be attended with a chance, at some distant period, of a curtailment of the extent of its dominions. That opposition becomes more absurd or criminal, when the dominions, of which we apprehend the loss, not only are not essential to our safety, but are of no other advantage to us than what may belong to the pleasure or patronage of ruling, and which, instead of affording us either money or men, have been a constant drain upon us both of one and the other. We do not in fact believe, that the obstructions which have been thrown in the way of colonization, have arisen mainly from the idea, that another nation of Englishmen would spring up in India, who might take upon them to govern themselves. Who would be base enough not to wish to see another America arise at a distance which might relieve us from the fear of its rivality?—Who is there who would not hail it as an extension of our honour, that great and happy and independent communities might be created by our descendants in every quarter of the globe, retaining the happiest characteristics of our manners and institutions? The fear of colonization seems to us to have been, in part, a continuation of the Company's dread of interlopers, which, like other habits, has long outlived the circumstances which gave it birth. To this, no doubt, have been added apprehensions not very well defined, that private English adventurers engaged in trade or manufactures, or in the cultivation of the land, might be guilty of some of those acts of tyranny in which the servants of the Company indulged, when they em-

barked in the private trade of the country. But a little reflection will suffice to show, that private colonists or merchants, entering into competition with the natives, with no other advantages than those which superior skill and civilization bestow, must stand in a very different situation from those who united the occupation of merchants, or rather of monopolists, with the possession of the whole judicial, administrative, and military power. Whether, under any encouragement, a sufficient number of Englishmen could be spread in a short time throughout the continent of India, is the question which admits of doubt. But if there could be once established in that country, a considerable body of Englishmen,—not merely civil or military officers, but merchants, manufacturers, cultivators and proprietors, who, while they possessed something of the independence and knowledge of the nation from which they sprung, participated in the interests of the people among whom they resided, a security would be provided for the good government of India, which can never be afforded by a superintending power in another quarter of the globe. A public opinion would be formed which would check the vices of the rulers, while it aided the beneficial exercise of their powers. The judicial offices might be filled by men who knew the people among whom they had to administer justice,—who would not be raised from the counting-house to the judgment-seat, and thence drawn, as they began to be useful, to the council-board;—and the number of Judges might be increased without impoverishing the finances, as the magistrate would not need such a salary as would send him with a fortune to Europe, but would receive some part of his reward in the respect of the people among whom he would have to pass his days.

We have now exceeded our ordinary limits, while we have left untouched many of the most valuable parts of the work before us. The estimate of the state and character of the Hindoos, and the attempt to fix their station in the scale of civilization, illustrated as it is by a prodigious store of appropriate learning, and by some profound views of the origin and progress of society and knowledge, would alone confer a lasting reputation on the author. The narratives and the examination of the administration of Hastings, and the judicial proceedings which followed it—of the government of the Marquis Wellesley, and his policy towards the native powers—are written with diligence, and without partiality or acrimony, and would, on that account alone, were none of the higher qualities of Mr Mill's mind infused into them, serve to interest the Indian reader. The account of Hastings, too, in particular, is a psychological curiosity.

We cannot speak as favourably of Mr Mill's style as of his matter. It has many marks of carelessness, and some of bad taste; and the narration, in a few instances, is not free from that greatest of all defects—obscurity; which has arisen from an inattention to the use of the tenses of the verbs. In his disquisitions, it is vigorous, though not always pure or dignified; and violations of the usage of the language with respect to particular words, are not unfrequently to be met with. But of all these faults, our readers will be able to judge from the extracts, more severely than we can ourselves,—who rise from the reading of the work, grateful for the vast body of information which it conveys, and impressed with respect, not only for the intellectual qualities of the author, but for his high and rare virtues as an historian.

ART. II. *Mémoires et Correspondance de Madame D'Epinay.* 3 vol. 8vo. Paris, 1818.

THERE used to be in Paris, under the ancient regime, a few women of brilliant talents, who violated all the common duties of life, and gave very pleasant little suppers. Among these supp'd and sinn'd Madame d'Epinay—the friend and companion of Rousseau, Diderot, Grimm, Holbach, and many other literary persons of distinction of that period. Her principal lover was Grimm; with whom was deposited, written in feigned names, the history of her life. Grimm died—his secretary sold the history—the feigned names have been exchanged for the real ones—and her works now appear abridged in three volumes octavo.

Madame d'Epinay, though far from an immaculate character, has something to say in palliation of her irregularities. Her husband behaved abominably; and alienated, by a series of the most brutal injuries, an attachment which seems to have been very ardent and sincere, and which, with better treatment, would probably have been lasting. For, in all her aberrations, Mad. d'Epinay seems to have had a tendency to be constant. Though extremely young when separated from her husband, she indulged herself with but two lovers for the rest of her life; —to the first of whom she seems to have been perfectly faithful, till he left her at the end of ten or twelve years;—and to Grimm, by whom he was succeeded, she appears to have given no rival till the day of her death. The account of the life she led, both with her husband and her lovers, brings upon the scene a great

variety of French characters, and lays open very completely the interior of French life and manners. But there are some letters and passages which ought not to have been published; which a sense of common decency and morality ought to have suppressed; and which, we feel assured, would never have seen the light in this country.

A French woman seems almost always to have wanted the flavour of prohibition, as a necessary condiment to human life. The provided husband was rejected, and the forbidden husband introduced in ambiguous light, through posterns and secret partitions. It was not the union to one man that was objected to—for they dedicated themselves with a constancy which the most household and parturient woman in England, could not exceed; —but the thing wanted was the wrong man, the gentleman without the ring—the master unsworn to at the altar—the person unconsecrated by priests—

'Oh! let me taste thee unexcis'd by kings.'

The following strikes us as a very lively picture of the ruin and extravagance of a fashionable house in a great metropolis.

'M. d'Epinay a complété son domestique. Il a trois laquais, et moi deux; je n'en ai pas voulu davantage. Il a un valet de chambre; et il vouloit aussi que je prisse une seconde femme, mais comme je n'en ai que faire, j'ai tenu bon. Enfin les officiers, les femmes, les valets se montent au nombre de seize. Quoique la vie que je mène soit assez uniforme, j'espère n'être pas obligée d'en changer. Celle de M. d'Epinay est différente. Lorsqu'il est levé, son valet de chambre se met en devoir de l'accommoder. Deux laquais sont debout à attendre les ordres. Le premier secrétaire vient avec l'intention de lui rendre compte des lettres qu'il a reçues de son département, et qu'il est chargé d'ouvrir; il doit lire les réponses et les faire signer; mais il est interrompu deux cents fois dans cette occupation par toutes sortes d'espèces imaginables. C'est un maquignon qui a des chevaux uniques à vendre, mais qui sont retenus par un seigneur; ainsi il est venu pour ne pas manquer à sa parole; car on lui en donneroit le double, qu'on ne pourroit faire affaire. Il en fait une description séduisante, on demande le prix. Le seigneur un tel en offre soixante louis.—Je vous en donne cent.—Cela est inutile, à moins qu'il ne se dédise. Cependant l'on conclut à cent louis sans les avoir vus, car le lendemain le seigneur ne manque pas de se dédire: voilà ce que j'ai vu et entendu la semaine dernière.

'Ensuite c'est un polisson qui vient brailler un air, et à qui on accorde sa protection pour le faire entrer à l'Opéra, après lui avoir donné quelques leçons de bon goût, et lui avoir appris ce que c'est que la propreté du chant françois; c'est une demoiselle qu'on fait attendre pour savoir si je suis encore là. Je me lève et je m'en vais; les deux laquais ouvrent les deux battans pour me laisser sortir, moi

qui passerois alors par le trou d'une aiguille ; et les deux estafiers crient dans l'anti-chambre : Madame, messieurs, voilà madame. Tout le monde se range en haie, et ces messieurs sont des marchands d'étoffes, des marchands d'instrumens, des bijoutiers, des colporteurs, des laquais, des décroteurs, des créanciers ; enfin tout ce que vous pouvez imaginer de plus ridicule et de plus affligeant. Midi ou une heure sonne avant que cette toilette soit achevée, et le secrétaire, qui, sans doute, sait par expérience l'impossibilité de rendre un compte détaillé des affaires, a un petit bordereau qu'il remet entre les mains de son maître pour l'instruire de ce qu'il doit dire à l'assemblée. Une autre fois il sort à pied ou en fiacre, rentre à deux heures, fait comme un brûleur de maison, dîne tête à tête avec moi, ou admet en tiers son premier secrétaire qui lui parle de la nécessité de fixer chaque article de dépense, de donner des délégations pour tel ou tel objet. La seule réponse est : Nous verrons cela. Ensuite il court le monde et les spectacles ; et il soupe en ville quand il n'a personne à souper chez lui. Je vois que mon temps de repos est fini.' I. 308–310.

A very prominent person among the early friends of Madame d'Epinay, is Mademoiselle d'Ette, a woman of great French respectability, and circulating in the best society ; and, as we are painting French manners, we shall make no apology to the serious part of our English readers, for inserting this sketch of her history and character by her own hand.

' Je connois, me dit-elle ensuite, votre franchise et votre discrétion : dites-moi naturellement quelle opinion on a de moi dans le monde. La meilleure, lui dis-je, et telle que vous ne pourriez la conserver si vous pratiquiez la morale que vous venez de me prêcher. Voilà où je vous attendois, me dit-elle. Depuis dix ans que j'ai perdu ma mère, je fus séduite par le chevalier de Valory qui m'avoit vu, pour ainsi dire, élever ; mon extrême jeunesse et la confiance que j'avois en lui ne me permirent pas d'abord de me défier de ses vues. Je fus long-temps à m'en apercevoir, et lorsque je m'en aperçus, j'avois pris tant de goût pour lui, que je n'eus pas la force de lui résister. Il me vint des scrupules ; il les leva, en me promettant de m'épouser. Il y travailla en effet ; mais voyant l'opposition que sa famille y apportoit, à cause de la disproportion d'âge et de mon peu de fortune ; et me trouvant, d'ailleurs, heureuse comme j'étois, je fus la première à étouffer mes scrupules, d'autant plus qu'il est assez pauvre. Il commençoit à faire des réflexions, je lui proposai de continuer à vivre comme nous étions ; il l'accepta. Je quittai ma province, et je le suivis à Paris : vous voyez comme j'y vis. Quatre fois la semaine il passe sa journée chez moi ; le reste du temps nous nous contentons réciproquement d'apprendre de nos nouvelles, à moins que le hasard ne nous fasse rencontrer. Nous vivons heureux, contens ; peut-être ne le serions nous pas tant si nous étions mariés.' I. p. 111, 112.

This seems a very spirited, unincumbered way, of passing through life; and it is some comfort, therefore, to a matrimonial English reader, to find Mademoiselle d'Ette kicking the Chevalier out of doors towards the end of the second volume. As it is a scene very edifying to rakes, and those who decry the happiness of the married state, we shall give it in the words of Madame d'Epinay.

'Une nuit, dont elle avoit passé la plus grande partie dans l'inquiétude, elle entre chez le chevalier: il dormoit; elle le réveille, s'assied sur son lit, et entame une explication avec toute la violence et la fureur qui l'animoient. Le chevalier, après avoir employé vainement, pour le calmer, tous les moyens que sa bonté naturelle lui suggéra, lui signifia enfin très-précisément qu'il alloit se séparer d'elle pour toujours, et fuir un enfer auquel il ne pouvoit plus tenir. Cette confidence, qui n'étoit pas faite pour l'appaiser, redoubla sa rage. Puisqu'il est ainsi, dit-elle, sortez tout à l'heure de chez moi; vous deviez partir dans quatre jours, c'est vous rendre service de vous faire partir dans l'instant. Tout ce qui est ici m'appartient; le bail est en mon nom; il ne me convient plus de vous souffrir chez moi: levez-vous, monsieur, et songez à ne rien emporter sans ma permission.' II. p. 193, 194.

Our English method of asking leave to separate from Sir William Scott and Sir John Nicol is surely better than this.

Any one who provides good dinners for clever people, and remembers what they say, cannot fail to write entertaining Memoires. Among the early friends of Madame d'Epinay was Jean Jacques Rousseau—she lived with him in considerable intimacy; and no small part of her book is taken up with accounts of his eccentricity, insanity and vice.

'Nous avons débuté par *l'Engagement téméraire*, comédie nouvelle, de M. Rousseau, ami de Francueil qui nous l'a présenté. L'auteur a joué un rôle dans sa pièce. Quoique ce ne soit qu'une comédie de société, elle a eu un grand succès. Je doute cependant qu'elle pût réussir au théâtre; mais c'est l'ouvrage d'un homme de beaucoup d'esprit, et peut-être d'un homme singulier. Je ne sais pas trop cependant si c'est ce que j'ai vu de l'auteur ou de la pièce qui me fait juger ainsi. Il est complimenteur sans être poli, ou au moins sans en avoir l'air. Il paroît ignorer les usages du monde; mais il est aisé de voir qu'il a infiniment d'esprit. Il a le teint brun; et des yeux pleins de feu animent sa physionomie. Lorsqu'il a parlé et qu'on le regarde, il paroît joli; mais lorsqu'on se le rappelle, c'est toujours en laid. On dit qu'il est d'une mauvaise santé, et qu'il a des souffrances qu'il cache avec soin, par je ne sais quel principe de vanité: c'est apparemment ce qui lui donne, de temps en temps, l'air farouche. M. de Bellegarde, avec qui il a causé long-temps, ce matin, en est enchanté, et l'a engagé à nous venir voir souvent. J'en suis bien aise; je me promets de profiter beaucoup de sa conversation.' I. p. 175–176.

Their friendship so formed, proceeded to a great degree of intimacy.—Madame d'Epinay admired his genius, and provided him with hats and coats; and, at last, was so far deluded by his declamations about the country, as to fit him up a little hermit cottage, where there were a great many birds, and a great many plants and flowers—and where Rousseau was, as might have been expected, supremely miserable. His friends from Paris did not come to see him. The postman, the butcher and the baker, hate romantic scenery—dutchesses and marchionesses were no longer found to scramble for him. Among the real inhabitants of the country, the reputation of reading and thinking is fatal to character; and Jean Jacques cursed his own successful eloquence which had sent him from the suppers and flattery of Paris to smell to daffodils, watch sparrows, or project idle saliva into the passing stream. Very few men who have gratified, and are gratifying their vanity in a great metropolis, are qualified to quit it. Few have the plain sense to perceive, that they must soon inevitably be forgotten,—or the fortitude to bear it when they are. They represent to themselves imaginary scenes of deploring friends and dispirited companies;—but the ocean might as well regret the drops exhaled by the sun-beams. Life goes on; and whether the absent have retired into a cottage or a grave, is much the same thing.—In London, as in Law, *de non apparentibus, et non existentibus eadem est ratio.*

This is the account Madame d'Epinay gives of Rousseau soon after he had retired into the hermitage.

'J'ai été il y a deux jours à la Chevrette, pour terminer quelques affaires avant de m'y établir avec mes enfans. J'avois fait prévenir Rousseau de mon voyage: il est venu me voir. Je crois qu'il a besoin de ma présence et que la solitude a déjà agité sa bile. Il se plaint de tout le monde. Diderot doit toujours aller, et ne va jamais le voir; M. Grimm le néglige; le baron d'Holbach l'oublie; Gauffecourt et moi seulement avons encore des égards pour lui, dit-il; j'ai voulu les justifier: cela n'a pas réussi. J'espère qu'il sera beaucoup plus à la Chevrette qu'à l'Hermitage. Je suis persuadée qu'il n'y a que façon de prendre cet homme pour le rendre heureux; c'est de feindre de ne pas prendre garde à lui, et s'en occuper sans cesse; c'est pour cela que je n'insistai point pour le retenir, lorsqu'il m'eut dit qu'il vouloit s'en retourner à l'Hermitage, quoiqu'il fût tard et malgré le mauvais temps.' II. p. 253–254.

Jean Jacques Rousseau seems, as the reward of genius and fine writing, to have claimed an exemption from all moral duties. He borrowed, and begged, and never paid;—put his children in a poor-house—betrayed his friends—insulted his benefactors—and was guilty of every species of meanness and mischief. His vanity was so great, that it was almost impossible

to keep pace with it by any activity of attention; and his suspicion of all mankind amounted nearly, if not altogether, to insanity. The following anecdote, however, is totally clear of any symptom of derangement, and carries only the most rooted and disgusting selfishness.

'Rousseau vous a donc dit qu'il n'avoit pas porté son ouvrage à Paris? Il en a menti, car il n'a fait son voyage que pour cela. J'ai reçu hier une lettre de Diderot, qui peint votre hermite comme si je le voyois. Il a fait ces deux lieues à pied, est venu s'établir chez Diderot sans l'avoir prévenu, le tout pour faire avec lui la revision de son ouvrage. Au point où ils en étoient ensemble, vous conviendrez que cela est assez étrange. Je vois, par certains mots échappés à mon ami dans sa lettre, qu'il y a quelque sujet de discussion entre eux; mais comme il ne s'explique point, je n'y comprends rien. Rousseau l'a tenu impitoyablement à l'ouvrage depuis le samedi dix heures du matin, jusqu'au lundi onze heures du soir, sans lui donner à peine le temps de boire ni manger. La revision finie, Diderot cause avec lui d'un plan qu'il a dans la tête, et prie Rousseau de l'aider à arranger un incident qui n'est pas encore trouvé à sa fantaisie. Cela est trop difficile, répond froidement l'hermite, il est tard, je ne suis point accoutumé à veiller. Bonsoir, je pars demain à six heures du matin, il est temps de dormir. Il se lève, va se coucher, et laisse Diderot pétrifié de son procédé. Voilà cet homme que vous croyez si pénétré de vos leçons. Ajoutez à cette reflexion un propos singulier de la femme de Diderot, dont je vous prie de faire votre profit. Cette femme n'est qu'une bonne femme, mais elle a le tact juste. Voyant son mari désolé le jour du départ de Rousseau, elle lui en demande la raison; il la lui dit: C'est le manque de délicatesse de cet homme, ajoute-t-il, qui m'afflige; il me fait travailler comme un manœuvre, je ne m'en serois, je crois, pas aperçu, s'il ne m'avoit refusé aussi sèchement de s'occuper pour moi un quart-d'heure...Vous êtes étonné de cela, lui répond sa femme, vous ne le connoissez donc pas? Il est dévoré d'envie; il enrage quand il paroît quelque chose de beau qui n'est pas de lui. On lui verra faire un jour quelques grands forfaits plutôt que de se laisser ignorer. Tenez, je ne jurerois pas qu'il ne se rangeât du parti des jésuites, et qu'il n'entreprît leur apologie.' III. 60, 61.

The horror which Diderot ultimately conceived for him, is strongly expressed in the following letter to Grimm,—written after an interview which compelled him, with many pangs, to renounce all intercourse with a man who had, for years, been the object of his tenderest and most partial feelings.

'Cet homme est un forcené. Je l'ai vu, je lui ai reproché, avec toute la force que donne l'honnêteté et une sorte d'intérêt qui reste au fond du cœur d'un ami qui lui est dévoué depuis long-temps, l'énormité de sa conduite; les pleurs versés aux pieds de madame d'Epi-

nay, dans le moment même où il la chargeoit près de moi des accusations les plus graves ; cette odieuse apologie qu'il vous a envoyée, et où il n'y a pas une seule des raisons qu'il avoit à dire ; cette lettre projetée pour Saint-Lambert, qui devoit le tranquilliser sur des sentimens qu'il se reprocheit, et où, loin d'avouer une passion née dans son cœur malgré lui, il s'excuse d'avoir alarmé madame d'Houdetot sur la sienne. Que sais-je encore ? Je ne suis point content de ses réponses ; je n'ai pas eu le courage de le lui témoigner, j'ai mieux aimé lui laisser la misérable consolation de croire qu'il m'a trompé. Qu'il vive ! Il a mis dans sa défense un emportement froid qui m'a affligé. J'ai peur qu'il ne soit endurci.

' Adieu, mon ami ; soyons et continuons d'être honnêtes gens : l'état de ceux qui ont cessé de l'être me fait peur. Adieu, mon ami ; je vous embrasse bien tendrement..... Je me jette dans vos bras comme un homme effrayé ; je tâche en vain de faire de la poésie, mais cet homme me revient tout à travers mon travail ; il me trouble, et je suis comme si j'avois à côté de moi un damné : il est damné, cela est sûr. Adieu, mon ami.... Grimm, voilà l'effet que je ferois sur vous, si je devenois jamais un méchant : en vérité, j'aimerois mieux être mort. Il n'y a peut-être pas le sens commun dans tout ce que je vous écris, mais je vous avoue que je n'ai jamais éprouvé un trouble d'ame si terrible que celui que j'ai.

' Oh ! mon ami, quel spectacle que celui d'un homme méchant et bourrelé ! Brûlez, déchirez ce papier, qu'il ne retombe plus sous vos yeux ; que je ne revoie plus cet homme là, il me feroit croire aux diables et à l'enfer. Si je suis jamais forcé de retourner chez lui, je suis sûr que je frémirai tout le long du chemin : j'avois la fièvre en revenant. Je suis fâché de ne lui avoir pas laissé voir l'horreur qu'il m'inspiroit, et je ne me réconcilie avec moi qu'en pensant, que vous, avec toute votre fermeté, vous ne l'auriez pas pu à ma place : je ne sais pas s'il ne m'auroit pas tué. On entendoit ses cris jusqu'au bout du jardin ; et je le voyois ! Adieu, mon ami, j'irai demain vous voir ; j'irai chercher un homme de bien, auprès duquel je m'asséye, qui me rassure, et qui chasse de mon ame je ne sais quoi d'infernal qui la tourmente et qui s'y est attaché. Les poètes ont bien fait de mettre un intervalle immense entre le ciel et les enfers. En vérité, la main me tremble. ' III. 148, 149.

Madame d'Epinay lived, as we before observed, with many persons of great celebrity. We could not help smiling, among many others, at this anecdote of our countryman David Hume. At the beginning of his splendid career of fame and fashion at Paris, the historian was persuaded to appear in the character of a Sultan ; and was placed on a sofa between two of the most beautiful women of Paris, who acted for that evening the part of inexorables, whose favour he was supposed to be soliciting. The absurdity of this scene can easily be conceived.

' Le célèbre David Hume, grand et gros historiographe d'Angle-

terre, connu et estimé par ses écrits, n'a pas autant de talens pour ce genre d'amusemens auquel toutes nos jolies femmes l'avoient décidé propre. Il fit son début chez madame de T * * *; on lui avoit destiné le rôle d'un sultan assis entre deux esclaves, employant toute son éloquence pour s'en faire aimer; les trouvant inexorables, il devoit chercher le sujet de leurs peines et de leur résistance: on le place sur un sopha entre les deux plus jolies femmes de Paris, il les regarde attentivement, il se frappe le ventre et les genoux à plusieurs reprises, et ne trouve jamais autre chose à leur dire que: *Eh bien! mes demoiselles....Eh bien! vous voilà donc....Eh bien! vous voilà....vous voilà ici?* ....Cette phrase dura un quart-d'heure, sans qu'il pût en sortir. Une d'elles se leva d'impatience: Ah! dit-elle, je m'en étois bien doutée, cet homme n'est bon qu'à manger du veau! Depuis ce temps il est relégué au rôle de spectateur, et n'en est pas moins fêté et cajolé. C'est en vérité une chose plaisante que le rôle qu'il joue ici; malheureusement pour lui ou plutôt pour la dignité philosophique, car, pour lui, il paroît s'accommoder fort de ce train de vie; il n'y avoit aucune manie dominante dans ce pays lorsqu'il y est arrivé; on l'a regardé comme une trouvaille dans cette circonstance, et l'effervescence de nos jeunes têtes s'est tournée de son côté. Toutes les jolies femmes s'en sont emparées; il est de tous les soupers fins, et il n'est point de bonne fête sans lui; en un mot, il est pour nos agréables ce que les Genevois sont pour moi.' III. 284, 285.

There is always some man, of whom the human viscera stand in greater dread than of any other person, who is supposed, for the time being, to be the only person who can dart his pill into their inmost recesses; and bind them over, in medical recognisance, to assimilate and digest. In the Trojan war, Podalirius and Machaon were what Dr Baillie and Sir Henry Halford now are—they had the fashionable practice of the Greek camp; and, in all probability, received many a guinea from Agamemnon dear to Jove, and Nestor the tamer of horses. In the time of Madame d'Epinay, Dr Tronchin of Geneva was in vogue, and no lady of fashion could recover without writing to him, or seeing him in person. To the Esculapius of this very small and irritable republic, Madame d'Epinay repaired; and, after a struggle between life and death, and Dr Tronchin, recovered her health. During her residence at Geneva, she became acquainted with Voltaire, of whom she has left the following admirable and original account—the truth, talent, and simplicity of which, are not a little enhanced by the tone of adulation or abuse which has been so generally employed in speaking of this celebrated person.

'Eh bien! mon ami, je n'aimerois pas à vivre de suite avec lui; il n'a nul principe arrêté, il compte trop sur sa mémoire, et il en abuse souvent; je trouve qu'elle fait tort quelquefois à sa conversation; il

redit plus qu'il ne dit, et ne laisse jamais rien à faire aux autres. Il ne sait point causer, et il humilie l'amour-propre ; il dit le pour et le contre, tant qu'on veut, toujours avec de nouvelles graces à la vérité, et néanmoins il a toujours l'air de se moquer de tout, jusqu'à lui-même. Il n'a nulle philosophie dans la tête ; il est tout hérissé de petits préjugés d'enfans ; on les lui passeroit peut-être en faveur de ses graces, du brillant de son esprit et de son originalité, s'il ne s'affichoit pas pour les secouer tous. Il a des inconséquences plaisantes, et il est au milieu de tout cela très-amusant à voir. Mais je n'aime point les gens qui ne font que m'amuser. Pour madame sa nièce, elle est tout-à-fait comique.

' Il paroît ici depuis quelques jours un livre qui a vivement échauffé les têtes, et qui cause des discussions fort intéressantes entre différentes personnes de ce pays, parce que l'on prétend que la constitution de leur gouvernement y est intéressée : Voltaire s'y trouve mêlé pour des propos assez vifs qu'il a tenus à ce sujet contre les prêtres. La grosse nièce trouve fort mauvais que tous les magistrats n'ayent pas pris fait et cause pour son oncle. Elle jette tour à tour ses grosses mains et ses petits bras par dessus sa tête, maudissant avec des cris inhumains les lois, les républiques et sur-tout ces polissons de républicains qui vont à pied, qui sont obligés de souffrir les criailleries de leurs prêtres, et qui se croient libres. Cela est tout-à-fait bon à entendre et à voir.' III. 196, 197.

Madame d'Epinay was certainly a woman of very considerable talent. Rousseau accuses her of writing bad plays and romances. This may be ; but her epistolary style is excellent—her remarks on passing events lively, acute, and solid—and her delineation of character admirable. As a proof of this, we shall give her portrait of the Marquis de Croismare, one of the friends of Diderot and the Baron d'Holbach.

' Je lui crois bien soixante ans ; il ne les paroît pourtant pas. Il est d'une taille médiocre, sa figure a dû être très-agréable : elle se distingue encore par un air de noblesse et d'aisance, qui répand de la grace sur toute sa personne. Sa physionomie a de la finesse. Ses gestes, ses attitudes ne sont jamais recherchés ; mais ils sont si bien d'accord avec la tournure de son esprit, qu'ils semblent ajouter à son originalité. Il parle des choses les plus sérieuses et les plus importantes d'un ton si gai, qu'on est souvent tenté de ne rien croire de ce qu'il dit. On n'a presque jamais rien à citer de ce qu'on lui entend dire ; mais lorsqu'il parle, on ne veut rien perdre de ce qu'il dit ; et s'il se tait, on désire qu'il parle encore. Sa prodigieuse vivacité, et une singulière aptitude à toutes sortes de talens et de connoissances, l'ont porté à tout voir et à tout connoître ; au moyen de quoi vous comprenez qu'il est fort instruit. Il a bien lu, bien vu, et n'a retenu que ce qui valoit la peine de l'être. Son esprit annonce d'abord plus d'agrément que de solidité, mais je crois que quiconque le jugeroit

frivole lui feroit tort. Je le soupçonne de renfermer dans son cabinet les épines des roses qu'il distribue dans la société: assez constamment gai dans le monde, seul je le crois mélancolique. On dit qu'il a l'ame aussi tendre qu'honnête; qu'il sent vivement et qu'il se livre avec impétuosité à ce qui trouve le chemin de son cœur. Tout le monde ne lui plaît pas; il faut pour cela de l'originalité, ou des vertus distinguées, ou de certains vices qu'il appelle passions; néanmoins dans le courant de la vie, il s'accommode de tout. Beaucoup de curiosité et de la facilité dans le caractère (ce qui va jusqu'à la foiblesse) l'entraînent souvent à négliger ses meilleurs amis et à les perdre de vue, pour se livrer à des goûts factices et passagers: il en rit avec eux; mais on voit si clairement qu'il en rougit avec lui-même, qu'on ne peut lui savoir mauvais gré de ses disparates.' II. p. 324–326.

The portrait of Grimm, the French Boswell, Vol. III. p. 97, is equally good, if not superior; but we have already extracted enough, to show the nature of the work, and the talents of the author. It is a lively, entertaining book,—relating, in an agreeable manner, the opinions and habits of many remarkable men; —mingled with some very scandalous and improper passages, which degrade the whole work. But if all the decencies and delicacies of life were in one scale, and five francs in the other, what French bookseller would feel a single moment of doubt in making his election?

Art. III. *Proposals for an Economical and Secure Currency; with Observations on the Profits of the Bank of England, &c.* By David Ricardo, Esq. London, 1816.

An Essay on Money. By C. R. Prinsep, Esq. London, 1818.

As the important question regarding the resumption of cash payments by the Bank of England, will, in the ensuing Session, come under the discussion of Parliament, the present seems a particularly fit period for endeavouring to excite the public attention to a consideration of the state of the currency. The events which have occurred since the epoch of the Parliamentary discussions relative to the Bullion Report, and more especially the restoration of the *par* of exchange and the fall in the price of bullion in 1814 and 1815, have thrown new light on some points which were then involved in considerable obscurity. We have now witnessed the effects produced, as well by a sudden diminution as by a rapid increase in the amount of the circulating medium. And it will be our own fault if we do not avail ourselves of this experience, not only to establish and elucidate the true theory of metallic and paper mo-

ney, but also to regulate and digest those practical measures which are now become necessary.

In addition to this, the extraordinary progress which has of late been made in the elucidation of the fundamental principles of political economy, and in separating and disentangling them from the errors with which they had been incumbered, has in nothing been more conspicuous than in what relates to money. The principle on which the value of bank paper is sustained on a par with the value of gold or silver, and by which its value in exchange may be raised to any conceivable extent, has been fully and satisfactorily developed: And by a happy and ingenious application of this principle, Mr Ricardo has shown that, in order to avoid all fluctuations in the value of paper money, except such as are incident to the metal itself which is assumed as the standard of value, and to preserve it constantly on a par with that metal, it is not necessary it should be rendered exchangeable for *coined money*. It shall be our object to endeavour to explain these principles, and to show how, without the circulation of a single gold coin, we may have all the security against depreciation and sudden and injurious fluctuations in the value of the currency, that we should possess if it consisted wholly of that metal.

There does not now seem to be much room for difference of opinion respecting the circumstances which regulate the value of metallic money, and its distribution throughout the various countries of the Globe. Bullion is a commodity, on the production of which, competition operates without any restraint: It is not subjected to any species of monopoly,—and its value in exchange must, therefore, be entirely regulated by the cost of its production, that is, by the quantity of labour necessary to bring any given quantity of it to market.

If, in every stage of society, it required precisely the same quantity of labour to produce a given quantity of bullion, its value would be invariable; and it would constitute a standard by which the variations in the exchangeable value of all other commodities could be ascertained. But this is not the case either with bullion or any other commodity. And its value, in the same way as the value of raw produce, manufactured goods, &c., fluctuates not only according to the greater or less productiveness of the mines from which it is extracted, but also according to the comparative skill of the miners, and the successive improvements of machinery.

The circumstance of the precious metals being used not only as an ordinary commodity in the manufacture of utensils, &c. but also as a circulating medium to expedite the exchange of

other commodities, cannot affect their exchangeable value. The capital devoted to the producing of gold and silver, must yield the common and ordinary rate of profit; for, if it yielded more than this rate, there would be an influx of capital to the mining business; and, if it yielded less, it would be withdrawn, and invested in some more lucrative employment. And hence, if the demand for gold and silver, from the commercial world gradually adopting any other commodity as an instrument of exchange, were diminished, the value of the precious metals would not, on that account, be reduced. A smaller supply would indeed be annually brought to market, and a portion of the capital formerly engaged in the mining, or refining and preparing the metals, would be disengaged; but, as the whole stock thus employed yielded only the average rate of profit, the portion which is not withdrawn must continue to do so,—or, what is the same thing, gold and silver must still continue to sell for the same price. It is indeed true, that where mines are of different degrees of productiveness, any great falling off in the demand for bullion might, by rendering it unnecessary to work the inferior mines, enable the proprietors of the richer mines to continue their work, and to obtain the ordinary rate of profit on their capitals, by selling their bullion at a reduced price. In this case the value of bullion would be really diminished; but it would be diminished, not because there was a falling off in the demand, but because there was a greater facility of production. On the other hand, an increased demand for bullion, whether it arose from the general suppression of paper money, or of a greater consumption of gold and silver in the arts, or from any other cause, would not—unless it was necessary, in order to procure the increased supply, to have recourse to mines of an inferior degree of productiveness—be accompanied by any rise of price. If the mines from which the additional supplies were to be drawn were less productive than those already wrought, more labour would be necessary to procure the same quantity of bullion, and of course its price would rise. But if no such increase of labour was required, its price would remain stationary, though a thousand times the quantity formerly required should be demanded.

After gold and silver have been brought into the market, whether they shall be converted into coin or into manufactured commodities, depends entirely on the fact, whether they will yield greater profits in the one way or the other. No person would take bullion to the mint, if he could realize a greater profit by disposing of it to a jeweller; and no jeweller would work

up bullion into plate, or expend it in gilding, &c., if he could turn it to greater account by converting it into coin. The value of bullion and coin must, therefore, in a country where the expenses of mintage are borne by the State, nearly correspond. When there is any unusual demand for bullion, coin will be melted down; and when, on the contrary, there is any unusual demand for coin, plate will be sent to the mint, and the equilibrium of value maintained.

While, therefore, competition is allowed to operate without restraint on the production of gold and silver, they will, like all other commodities, be valuable only in proportion to the quantity of labour necessarily expended in bringing them to market. And hence, while they constitute the currency of the commercial world, the price of commodities, or their value, compared with gold and silver, will vary, not only according to the variations in the real value of the commodities themselves, but also according to the variations in the real value of the gold and silver with which they are compared.

But if competition was not allowed to operate on the production of the precious metals,—if they could be monopolized, and limited in their quantity,—their exchangeable value would no longer be regulated by the same principles. If, after the limitation, they still continued to be used as a circulating medium; and if, in consequence of the improvement of society, manufactured commodities and valuable products of all kinds should be very much multiplied, the exchanges which this *limited* amount of currency would have to perform, would be proportionably increased; and, of course, a proportionably smaller sum would be devoted to each particular transaction; or, which is the same thing, money prices would be diminished. Whenever the supply of money becomes fixed, the amount of it to be given in exchange for any one commodity, varies inversely as the *demand*, and is altogether unaffected by any other circumstance. If double the usual supply of commodities were brought to market, in a country with a limited currency, their money price would be reduced one half: and if only half the usual supply were brought to market, it would be increased one half;—and this, whether the cost of their production was increased or diminished. In such a state of society, no person would exchange a bushel of wheat, or a yard of cloth, for money, on the ground that this money was a commodity possessed of equal *intrinsic* value, or because an equal quantity of labour had been expended on its production; but solely because it was necessary or expedient to have their value, relatively to other commodities,

ascertained, by a comparison with that particular commodity which had been set apart as a general standard or measure of exchangeable value. Guineas, sovereigns, livres, &c. would then really constitute mere tickets or counters, to be used in computing the relative value of property, and in transferring it from one person to another. And as a small quantity of such tickets or counters would serve for this purpose quite as well as a large quantity, it is unquestionably true, that a debased currency might, by limiting its quantity, be made to circulate at the value it would bear if it were possessed of the legal weight and fineness; and by still further limiting its quantity, it might be made to pass at any higher value.

Whatever, therefore, may be the nature of the circulating medium of any country, whether it consist of gold, silver, copper, leather, salt, cowries, or paper, and however destitute it may be of all intrinsic value, it is yet possible, by sufficiently limiting its quantity, to raise its value in exchange to any conceivable extent.

Thus, supposing the circulating medium of this country to be limited to 50 or 60 millions of one pound notes, and that it was altogether impossible to increase or diminish that sum, either by issuing additional notes or coins, or by withdrawing the notes already in circulation, then it is obvious, that the exchangeable value of such notes would thereafter increase or diminish according as the mass of circulating products, and consequently the business to be performed by this paper money, increased or diminished. If we suppose that ten times the amount of products that were in circulation when this limitation of the currency took place, are in circulation ten or twenty years afterwards, prices will have fallen to *one-tenth* of their former amount; or, what is the same thing, the exchangeable value of the paper money will have increased in a tenfold proportion;—and on the other hand, if the products in circulation had diminished in the same proportion, the value of the paper money would have been equally reduced.

It is not, therefore, necessary that paper money should, in order to sustain its value on a par with gold, be convertible at the pleasure of the holder into that metal. It is only necessary that its quantity should be regulated according to the value of the metal which is declared to be the standard. If the standard were gold of a given weight and fineness, paper might be increased with every fall in the value of gold, or, which is the same thing in its effects, with every rise in the price of goods.

We have stated these principles somewhat at large, for they are of the utmost importance to a right understanding of the

real nature of money. Almost every writer, of authority, on Political Economy, has maintained, that the value of money depended entirely on the relation between the supply and the demand. But this is true only of a gold currency limited in its quantity, or of a paper currency also limited in its quantity, and *not* convertible into gold and silver. Such a currency not being possessed of any intrinsic value, its worth in exchange is necessarily regulated by the proportion which its total amount bears to the business which it has to perform, or to the demand; and the general opinion, that the prices of commodities depend on the proportion between them and money, and that any considerable increase or diminution of either, would have the effect of proportionably diminishing or increasing money prices, would, in such circumstances, be quite correct. It is altogether different, however, with a currency consisting of gold and silver, or of any other commodity whose cost of production is considerable, and the quantity of which may be increased to an unlimited extent by the operation of unrestricted competition.

It is not the ratio between the supply and demand for such money, which can operate any permanent effect on its value; but it is the comparative cost of its production, or, as Mr Ricardo has demonstrated, the comparative *quantities of labour* necessary to bring it to market. If a guinea ordinarily exchanges for a couple of bushels of wheat, or a hat, it is because the same labour has been expended on its production as on that of either of these commodities; while, if, with a limited paper currency, such commodities exchanged for a piece of engraved paper denominated a *guinea note*, it would only be because such was the proportion which, as a part of the general mass of circulating commodities, they bore to the supply of paper in the market. This proportion would be affected by an increase or a diminution of the supply either of paper or commodities. But the relation which commodities bear to a gold currency, can only be permanently affected by a change in the quantity of labour necessary to manufacture the commodities, or to produce the gold for which they are exchanged.

We must here caution our readers against supposing that we mean to insinuate that the value of gold and silver cannot be affected by the comparative state of the demand for, and the supply of, these metals. Certainly, however, they are infinitely less affected by such fluctuations than almost any other commodity with which we are acquainted. Their great durability, and the care universally taken to preserve them, preclude the possibility of any sudden diminution of their quantity, while the immense surface over which they are spread, and the various purposes to

which they are applied, prevent any unusual productiveness of the mines from speedily lowering their value. An extraordinary event, such as the discovery of America, or the establishment of an intercourse between a country where bullion bore a very high value, and one where its value, from the greater facility of its production, is comparatively low, might, by suddenly increasing the supply, sink its value considerably: But such events must necessarily be of very rare occurrence. And although the value of gold and silver must, because of the different qualities of the mines, to which, in the progress of society, recourse must be had,—and, because of the successive improvements in the art of mining and working metals, be very different at distant periods,—it is abundantly uniform to secure us against every risk of sudden and injurious fluctuations.

Such appear to us to be the distinguishing characteristics of a currency formed of a really valuable commodity, the supply of which is not subjected to any species of monopoly; and of one formed of a commodity possessed of no intrinsic worth, but limited in its amount. The value of the former depends, like that of every other commodity, on the cost of its production; while the value of the latter is totally unaffected by that circumstance, and depends entirely on the extent to which it has been issued, compared with the demand.

It is by this principle of limitation, and not from any idea that the notes would at some future period be paid in cash, that the value of the paper currency of this country has been sustained since the passing of the Restriction act in 1797. When the holder of a bill presents it for discount at the Bank of England, it is quite immaterial to him; and he never once considers, whether the notes which the Bank gives him in exchange for his bill, are payable in specie or not. This, to be sure, is, on other accounts, of the greatest importance; but the presenter of a bill for discount only wants to convert it into paper of equal value; which he may, with greater facility, exchange for any species of commodities, or which will be taken in payment of the debts he has contracted. He is altogether indifferent as to the fact, whether the Bank has issued such a quantity of paper as to depreciate its value comparatively to gold, or whether it has so limited its issues as to sustain its notes on a par with that metal. These are circumstances which affect every class of society whose incomes cannot easily be varied with the variations in the value of money: But, inasmuch as the money price of goods rise and fall with every increase or diminution of the supply of paper, merchants are but comparatively little affected by its fluctuations. The merchant who presents a bill for 500*l.* or 1000*l.* to a bank,

has acquired this bill, if it has arisen out of a real commercial transaction, in lieu of a certain quantity of goods, which, at the then value of money, were worth 500*l.* or 1000*l.*; and it is this 500*l.* or 1000*l.*, which, by presenting his bill to the Bank, he wishes to obtain. If the value of money had been different, the sum for which the bill would have been drawn would also have been different. It is to this market value of money at the time, that, in all commercial affairs, attention is exclusively paid. When in 1809, 10, 11, 12, 13 and 14, the Bank issued such a quantity of paper as to depress its value below the value of bullion, the circumstance of an act of Parliament having declared, that bank notes would be paid in cash at the restoration of peace, had no effect in raising their value. Merchants only draw money from a bank, because they have immediate occasion for its services. After it has been drawn, they throw it into the market for whatever it will bring; and, as they purchased it on the same terms, (for the value of money can be but slightly affected in the interval between the time that a bill is discounted and when it becomes due), they generally get as much for it, and perhaps more, than it cost. We shall afterwards endeavour to explain what it is which constitutes the natural limit to the applications of merchants for discounts. But what we have already said must, we think, render it evident, that it has nothing to do with the convertibility of notes into specie.

In like manner, those who have recourse to a bank to obtain discounts of accommodation bills, consider only the present value of money. No person discounts accommodation paper, except with a view of immediately employing the money so obtained, either in the purchasing of commodities or labour, or in the payment of debts: And, whether one pound notes are worth 10s. or 20s., is of no consequence; inasmuch as the amount of the bill presented for discount is regulated accordingly.

The circumstance of the circulation of country bank notes ceasing as soon as any general apprehension is entertained of the solvency of those by whom they are issued, is nowise inconsistent with this principle. Country bank notes are rendered exchangeable, at the pleasure of the holder, for Bank of England notes; but since the epoch of the Restriction, the latter not being exchangeable for any other commodity, they constitute the real standard of exchangeable value.—When a country bank loses credit, the circulation of its notes is stopped, because a suspicion is entertained that it will be impossible to exchange them for paper of the Bank of England, or, in other words, for that species of paper which constitutes the real medium of ex-

change. But it is impossible to imagine that the paper constituting this medium should itself be affected by a want of credit. Every individual knows that it never had any intrinsic worth; and, as we have already shown, its value was always regulated, and must, as long as it is not rendered exchangeable for a *given quantity* of some other commodity, continue to be regulated, by the amount of it in circulation compared with the demand.

It appears, therefore, that if there was perfect security that the power of issuing paper money would not be abused,—that is, if there was perfect security for its being issued in such quantities as to preserve its value relatively to the mass of circulating commodities nearly uniform,—the precious metals might be entirely discarded from circulation.

Unfortunately, however, no such security can be given.—If this power of supplying the State with money is vested in a private banking company such as the Bank of England; then, to suppose that they should constantly endeavour to sustain the value of their notes, would be to suppose that they should be extremely attentive to the public interests, and extremely inattentive to their own. The rendering the Restriction act perpetual would not, in our opinion, at all affect the value of our paper currency, provided its quantity was not at the same time increased. But that, in such circumstances, it would be increased, is morally certain.—Such a proceeding would enable the Bank of England to exchange engraved paper, not worth perhaps 5s. a quire, for as many, or the value of as many hundreds of thousands of pounds. And is it to be supposed that the Directors and Proprietors of the Bank would not avail themselves of such an opportunity to amass wealth and riches? Is it to be supposed, that if the State enables a private gentleman to exchange a bit of paper for an estate, he will be deterred from doing so by any metaphysical considerations about its effect on the currency of the kingdom! In Loo Choo we might perhaps meet with such a primitive individual; but if we expect to find him in Europe, we shall assuredly be disappointed. In this quarter of the globe we are much too eager in the pursuit of fortune, to be at all affected by any such Utopian scruples.

On this point we are not left to be guided by general principles. We have it in our power to appeal to a widely extended and uniform course of experience,—to the history of Great Britain and every other state in Europe, and to that of the United States,—to show that no man, or set of men, have ever been invested with the power of making unrestricted issues of paper money without abusing it—or, which is the same thing, without issuing it in inordinate quantities. It is essential, there-

fore, that the issuers of paper money should be placed under some species of check or control; and, for the reasons already stated, none seems so proper for that purpose as to subject the issuers of paper money to the obligation of exchanging their notes at the pleasure of the holder for a given and unvarying quantity either of gold or silver coin or bullion.

But it has been contended, that there is a radical difference between paper money issued by a government in payment of the debts it has contracted, and that which is issued by a private banking company in discount of good bills. In regard to the former, it is admitted on all hands, that it may be issued in excess; but in regard to the latter, it has been strenuously urged, that 'notes issued only in proportion to the demand, in exchange for good and convertible securities payable at specific periods, cannot tend to any excess in the circulation, or to any depreciation.' As every one of the arguments, advanced by those who maintain that our paper currency has not been depreciated since 1797, involve this principle, it will be necessary to examine it a little minutely.

In the *first* place, it may be observed, that the demand for discounts depends *not* on the nature of the security required for the repayment of the sums advanced by a bank, but *on the rate of interest for which these sums can be obtained, compared with the ordinary rate of profit which may be made by their employment.* If a person can procure 1000*l.*, 10,000*l.* or any greater sum from a banker at 4, 5, or 6 per cent.; and if he can realize 7, 8, or 10 per cent. by its employment as capital, it is evidently for his interest, and for the interest of every other person similarly situated, to borrow to an unlimited extent. But a banking company which was relieved from all obligation to pay its notes in cash, and which, of course, was not obliged to keep any portion of *unproductive stock* or bullion in its coffers, would be able to issue its notes at a very low rate of interest. The demand for its paper would, therefore, be proportionably great.

'The interest of money,' says Mr Ricardo, 'is not regulated by the rate at which the Bank will lend, whether it be 5, 4, or 3 per cent., but by the rate of profits which can be made by the employment of capital, and which is totally independent of the quantity, or of the value of money. Whether the bank lent one million, ten millions, or a hundred millions, they would not permanently alter the market rate of interest; they would alter only the value of the money which they thus issued. In one case, ten or twenty times more money might be required to carry on the same business, than what might be required in the other. The applications to the bank for money, then, depend on the comparison between the rate of pro-

fits that may be made by the employment of it, and the rate at which they are willing to lend it. If they charge less than the market rate of interest, there is no amount of money which they might not lend; —if they charge more than that rate, none but spendthrifts and prodigals would be found to borrow of them. We accordingly find, that when the market rate of interest exceeds the rate of 5 per cent., at which the Bank uniformly lends, the discount office is besieged with applicants for money; and on the contrary, when the market rate is even temporarily under 5 per cent., the clerks of that office have no employment.' *

From 1809 to 1815 inclusive, the period in which the value of our paper currency relatively to gold was lowest, the market rate of interest considerably exceeded the rate (5 per cent.) at which the Bank of England, and most of the country banks, discounted. Although, therefore, the amount of the paper currency of the country had in that interval been very much increased, the applicants for fresh discounts continued as numerous as ever: And there appears no reason to doubt, that, had the Directors not been apprehensive that ultimately they might be called upon to pay their notes in specie, the quantity of them in circulation in 1813 and 1814 would have been very much increased—at least, such would most unquestionably have been the fact, had the Directors acted to the full extent of their avowed opinion, that it was impossible to issue too much paper, or to reduce its value, by engrossing into the circulation such quantities as could be issued in discount of good bills. The wants of commerce are altogether insatiable. Paper money, provided the rate of interest at which bills are discounted is less than the market rate, can never be too abundant. As long as this is the case, million after million may be thrown into the market. The value of the currency may be so reduced, as to require a one pound note to purchase a quartern loaf; and yet, as its value is diminished in proportion to the increase of its quantity, the demand for additional supplies would continue as great as ever.

If the Bank of England were alone in the possession of an alchemical process, whereby guineas could be manufactured with the same facility as notes, it would not be disputed, that it would then be in the power of the Bank to depreciate the former value of gold, by issues of what had been produced at so very little cost. Now, in what respect does this fictitious case differ from the actual situation of the Bank? While the restriction continues, the Bank is enabled to transmute, or, which is the same in its effects, to exchange pieces of paper for landed property, manufactured goods, government securities, &c. But

* Principles of Political Economy, &c. p. 511.

the value of this paper, like the value of the gold in the hypothetical case, depends entirely on the proportion which the supply bears to the demand; and, as this demand is not affected by an increase of quantity,—for that increase, by diminishing its value, renders the larger quantity of as little efficacy as the lesser quantity was before,—it is abundantly clear, that if the Bank lent at a sufficiently low rate of interest, there could be no possible limit to its issues.

In the *second* place, if it were true, which unquestionably it is not, that the notes of a private banking company, issued in discount of good mercantile paper, could not be depreciated from excess, that will not apply to the case of the Bank of England; for the greater part of its paper is issued in payment of the interest of the national debt, amounting to about thirty millions per annum, exclusive of the sinking fund. And really, when such is the fact, it is a little too much to contend, as the apologists of the Restriction Act have almost always done, that Bank of England paper could not be depreciated, because it was only issued in discount of legitimate mercantile paper, payable 60 days after date. It is but justice to mention, that Mr Baring, one of our most extensive merchants, and one of the Bank Directors, publicly ridiculed this idea; and stated, in his place in the House of Commons, 'that the great mass of the Bank paper was issued *compulsorily* in payment of the public creditor, and in the other great transactions of Government.' *

It has been contended, and it is the only other argument that deserves the least notice, that the restoration of the *par* of exchange in 1815 and 1816, when the restriction was in full operation, affords a practical and convincing proof that the depression of the exchanges during the war, and the high price of bullion, had not been caused by any over-issue of paper. But this fact leads to a precisely opposite conclusion. It is of no use to tell us, that the exchanges came to *par* while the restriction on cash payments was unrepealed. No person ever contended, that the simple fact of such a law being in existence, could have any effect in depreciating the currency. The restriction was condemned, and justly condemned, because it *enabled* the Bank of England to deluge the country with paper. If the Bank had never abused that power,—if the proprietors had sacrificed their own direct, palpable, and individual interests to those of the public, and had constantly kept their paper on a level with bullion, the Restriction Act, though unwise, would, as to conse-

* *Vide* Morning Chronicle, 2d May 1816.

quences, have been the same as if it had never existed. The question is not, therefore, whether the exchange came to *par* while the restriction continued, but *whether it came to* PAR *while as many notes circulated as in the period of its greatest depression?* If this could be shown, and if it could also be shown that the effective demand for paper had not at the same time increased in a corresponding ratio, the argument would be conclusive; and we should be compelled to admit, that a great comparative increase of paper currency has no tendency to diminish its value, or to render the exchange unfavourable.

But it would be worse then idle to set about proving by argument, a fact so notorious, as the prodigious diminution of bank paper in 1814 and 1815. In that period, above 240 country banks became altogether bankrupt, or at least stopped payment. The Board of Agriculture estimated, that in the county of Lincoln alone, above *three millions* of bank paper had been withdrawn from circulation; and the total diminution of the currency during 1814, 1815, and 1816, has never been estimated at less than *twenty millions*, though it probably amounted to much more.—Mr Horner, the accuracy and extent of whose information cannot be called in question, made this statement on the subject, in his place in Parliament.

'From inquiries he had made, and from the accounts on the table, he was convinced that a greater and more sudden reduction of the circulating medium, had never taken place in any country than had taken place since the peace in this country, with the exception of those reductions which had happened in France after the Mississippi scheme, and after the destruction of the *assignats*. The reduction of the currency had *originated* in the previous fall of the prices of agricultural produce. The fall had produced a destruction of country bank paper, to an extent which would not have been thought possible, without more ruin than had actually ensued. The Bank of England had also reduced its issues. As appeared by the accounts recently presented, the average amount of its currency was not, during the last year, more than between twenty-five and twenty-six millions; while, two years ago, it had been nearer twenty-nine millions, and at one time even amounted to thirty-one millions. But without looking to the diminution of Bank of England paper, the reduction of the country paper was enough to account for the fall which had taken place.'*

Here, then, is the true cause of the nominal exchange coming to *par* in 1815 and 1816. Our paper currency was reduced to such an extent, as to become nearly of the same value with

* *Vide* Morning Chronicle, 2d May 1816.

the currency of other nations; and this reduction was necessarily attended by a fall in the price of bullion, and a restoration of the *par* of exchange. This fact, therefore, affords the strongest possible confirmation of the correctness of the principles we have been endeavouring to elucidate. For it conclusively shows, that the value of our paper currency which had been depreciated, relatively to that of the contiguous States, was raised to the same level as soon as its quantity had been sufficiently diminished.

On the whole, therefore, it appears to us, that the restoration of cash or *bullion* payments, affords the only effectual security against depreciation, and against sudden and pernicious fluctuations in the value of our paper money; and the way in which it would produce these effects is sufficiently obvious: For the run that would then be made on the Bank for specie for exportation, whenever the currency, as compared with that of other countries, had become redundant, would very quickly compel the Directors to limit their issues, and consequently to raise the value of their paper. An extremely small profit is sufficient to set the bullion merchants, and a still smaller one to set the melters of the coin, to work: And therefore the value of a paper currency, convertible at pleasure into a *given quantity* of the precious metals, can never differ considerably from their value in the country where it is issued; and all the difference that can take place in the value of gold and silver currencies, among nations trading together, will generally be limited to the expense of the transfer of bullion from the one to the other. If it exceeds this sum, an inducement to importation is held out;—if it is less, it will be profitable to export; and, in either case, the equilibrium of value will be very soon attained.

A currency would be in its most perfect state, if it consisted wholly of paper money—but of paper money of an equal value with the gold or silver which it professed to represent. The use of paper instead of gold, substitutes the cheapest in room of the most expensive material, and enables the country, without loss to any individual, to exchange all the gold which it before used for this purpose, for raw materials or manufactured goods, by the use of which both its wealth and its enjoyments are increased. But before proceeding to point out the means by which Mr Ricardo has shown, in the admirable pamphlet before us, that paper may be sustained on a par with gold, and made convertible at pleasure into that metal, without requiring the circulation or coinage of any quantity of gold, we shall offer a few remarks on the expense of a currency consisting of the precious metals.

Mr Whitmore, the Governor of the Bank of England, stated

to the Bullion Committee, that in his opinion, the quantity of gold coin in circulation for the three years previous to the Restriction, amounted to about *twenty millions;* and, although the data from which all such estimates are framed must necessarily be very imperfect, yet we think the history of the coinage affords good grounds for supposing that Mr Whitmore has, in this case, come very near the truth. Now, as there is no reason to imagine that the real value of gold, or the cost of its production, has increased since 1797, it may be concluded, that if the Bank of England were now obliged to exchange its notes for guineas or sovereigns, the same quantity of them would in a short time be again in circulation. On this supposition, therefore, and we are sure it is very far from being exaggerated, *twenty millions*, or the value of *twenty millions*, would have to be withdrawn from the productive capital of the country, and employed in expediting those exchanges, for which, if its value could be otherwise sustained, *ten* or *twenty thousand pounds* worth of engraved paper would suffice. Neither would this immense sum be merely abstracted from the great work of production—it would be perpetually diminishing. The loss of the coins from ordinary tear and wear, rubbing, filing, shipwrecks, &c., occasions a permanent annual expenditure, to which must be added the expense of mintage, and the loss which arises to the State from the melting of the coins, consequent on any sudden rise of the market price of bullion, or of any considerable fall in the exchange. The interest of the capital of twenty millions, including these different additional charges, cannot be estimated at less than 10 per cent., or *two millions* sterling per annum. Or, in other words, the rendering bank notes exchangeable at the pleasure of the holder for coined gold or silver, would cost Great Britain, exclusive of the loss arising from the locking up of capital in the coffers of the Bank, not less than two millions annually; and, including Ireland, the cost would not be less than two millions and a half, or three millions.

It is to no purpose to contend, that this loss would fall on the Bank, and that its only effect would be, to lessen the profits of that establishment. The wealth of the State is made up of the wealth of individuals; and if the Bank Proprietors were not obliged to employ twenty or thirty millions in the purchase of gold, they would employ it in some other way,—in the cotton or woollen manufacture, in the construction of docks, warehouses, &c., or in such a manner as would be productive of wealth to themselves and also to the community. We certainly think that the public ought directly to participate in the profits to be

derived from supplying the nation with money. But as it cannot be denied that the wealth of the Bank Proprietors is essentially national wealth, and as whatever has a tendency to increase their fortunes, without diminishing those of others, must be so far advantageous, we do not think that the mere circumstance of the expense of providing a gold currency falling on them only, ought to be held as any valid reason for declining to adopt every expedient for diminishing that expense. Besides, it is not true that the expense of a gold currency would, in these circumstances, fall entirely on the proprietors. As the law now stands, the whole expense of coinage, amounting annually to a very considerable sum, is paid by the State; and when, it becomes necessary to call in the coin in circulation, the difference between the value of the old money brought to the mint to be recoined, and the coins of full weight which are given in exchange for them, falls altogether on the public.

This is by no means a trifling sum. The total expense of the great silver recoinage in the reign of William III., including the sum paid by the public to make up the deficiency in the weight of the old money, amounted, according to the estimate of the late Lord Liverpool, to 2,703,164*l.*; * and the expense of the gold recoinage in 1774, 1775, 1776, and 1778, including, as above, the sum paid to compensate deficiencies of weight, to 517,320*l.*† The expense of the late silver recoinage amounted, notwithstanding the reduction in the weight of the coins, or the exacting of a seignorage of about 6 per cent., to 500,992*l.*; and this, as well as the other sums, are exclusive of the annual Parliamentary grant to the Master of the Mint, for conducting the ordinary business of that establishment. This grant has of late years rather exceeded 15,000*l.*‡

If, therefore, the Restriction act should now be repealed, and the Bank of England obliged to pay its notes in gold coin at the pleasure of the holders, it would be necessary to purchase from twenty to thirty millions worth of gold bullion. And the loss attending the abstraction of so great a sum from the productive industry of the country, added to the expense of coinage, and the annual charge that must afterwards be occasioned by the tear and wear of the coins, ought certainly to induce us to adopt any other system, which, at the same time that it would afford our ancient security against fluctuations in the value of paper

* Liverpool on Coin, p. 75.

† Ruding's Annals of the Coinage, Vol. II. p. 495.

‡ Lord Liverpool states the total expenses of the Mint, from 1777 to 1803 inclusive, at 488,441*l.*—See his Treatise on Coin, p. 156.

money, by constantly keeping it on a par with gold, would save almost all this expense.

Mr Ricardo's contrivance for accomplishing this desirable object, is equally simple and effectual. It consists in making bank notes exchangeable for bars of assayed bullion of the standard purity, at the mint price of 3*l.* 17s. 10½d. an ounce; or, which is the same thing, Mr Ricardo proposes, that for every sum of 3*l.* 17s. 10½d. of paper presented to the Bank for payment, it should be obliged to give, not *three guineas* and 14s. 10½d., but *an ounce of standard gold bullion.*

'To secure,' says Mr Ricardo, 'the public against any other variations in the value of the currency than those to which the standard itself is subject, and, at the same time, to carry on the circulation with a medium the least expensive, is to attain the most perfect state to which a currency can be brought; and we should possess all those advantages by subjecting the Bank to the delivery of uncoined gold or silver at the mint standard and price, in exchange for their notes, instead of the delivery of guineas; by which means paper would never fall below the value of bullion, without being followed by a restriction of its quantity. To prevent the rise of paper *above* the value of bullion, the Bank should be also obliged to give their paper in exchange for standard gold at the price of 3*l.* 17s.* an ounce. Not to give too much trouble to the Bank, the quantity of gold to be demanded in exchange for paper at the mint price of 3*l.* 17s. 10½d., or the quantity to be sold at the Bank at 3*l.* 17s., should never be less than twenty ounces. In other words, the Bank should be obliged to purchase any quantity of gold that was offered them, not less than twenty ounces, at 3*l.* 17s. per ounce, and to sell any quantity that might be demanded at 3*l.* 17s. 10½d. While they have the power of regulating the quantity of their paper, there is no possible inconvenience that could result to them from such a regulation.

'The most perfect liberty should be given, at the same time, to export or import any description of bullion. These transactions in bullion would be very few in number, if the Bank regulated their loans and issues of paper by the criterion which I have so often mentioned, namely, the price of standard bullion, without attending to the absolute quantity of paper in circulation.

'The object which I have in view would be in a great measure attained, if the Bank were obliged to deliver uncoined bullion in exchange for their notes at the mint price and standard; though they were not under the necessity of purchasing any quantity of bullion offered them at the prices to be fixed; for that regulation is merely suggested, to prevent the value of money from varying from the value of bullion more than the trifling difference between the prices at which

* 'The price of 3*l.* 17s. here mentioned, is, of course, an arbitrary price. It might be fixed either a little higher or a little lower. In naming 3*l.* 17s., I wish only to elucidate the principle.'

the Bank would buy and sell, and which would be an approximation to that uniformity in its value which is acknowledged to be so desirable.' *

That this plan would realize every one of these advantages, and that it would place our currency on a better footing than at any former period, cannot, we think, be disputed. In a sound state of the currency, or when bank notes are exchangeable for gold, should the Bank issue too much paper, so as to depress its value below the value of the standard, then, as the holders of paper money would make a profit by exchanging their paper for gold, there would be a run upon the Bank; and it would be compelled to restrict its issues, in order to raise the value of its paper. This was the way in which the value of paper was sustained previously to the Restriction; and the same check would operate in precisely the same manner, if the Bank were now obliged to give bullion, instead of coined gold, for its notes. As a device for preserving paper on a par with gold, Mr Ricardo's plan is, in some material respects, infinitely preferable to the old method of exchanging notes for coins. When a currency consists partly of paper and partly of the precious metals, any over-issue of the former depresses, not merely the value of the paper money, but of the coins which circulate along with it. These coins are, therefore, immediately converted into bullion; for it is admitted, on all hands, that laws prohibiting the melting of coined money, become in such circumstances quite inoperative. Bullion, however, cannot be accumulated in any one country without losing its relative value; and hence the ultimate effect of an over-issue of bank paper, in a country whose currency partly consists of gold coins, is an exportation either of coin, or of bullion formed out of the coin. But, on Mr Ricardo's system, as there would be no coin in circulation, there would be no employment for the melters, and no loss thereby occasioned to the State. As soon as the bullion merchants found that a profit might be made by sending notes to the Bank to be exchanged for bullion, they would do so; and, as the exportation of bullion would be perfectly free, there would be no occasion to hire a starving wretch to swear, that a bar formed from melted guineas had been made up of foreign coin. The value of our currency would not, as formerly, be sustained by the underhand agency of the most worthless of characters,—the melters and clandestine exporters of coin.

As the maintaining of paper on a par with gold at the least possible expense to the country, and with the least inconvenience to all parties concerned, is the great object to be effect-

* Economical and Secure Currency, p. 25.

ed by Mr Ricardo's scheme, there does not seem to be any very cogent reason why the Bank should be obliged to give so small a quantity as twenty ounces of bullion, in exchange for a proportionable quantity of their paper. It would save a great deal of trouble, or at least obviate a great deal of cavilling, were the *minimum* quantity of bullion which could be demanded from the Bank fixed at 500 or 1000 ounces; and as, according to the plan in question, the value of paper would be prevented from falling below, or rising above the value of gold, by the operations of respectable bullion merchants, a class of men remarkable for their shrewdness, and generally possessed of large capitals, this regulation, while it would be productive of benefit to the Bank, would not, in a public point of view, be attended with any ill effects.

Though it is certainly against the interest of the Directors of the Bank greatly to reduce their paper, still it cannot be denied, even by those who contend that they have no power indefinitely to add to their issues, that they have the power to *refuse to discount*, and that consequently they have it in their power to reduce the currency to the narrowest limits. Such a power ought not to be entrusted to the State itself, and still less to the managers of any private banking company; for there can be no security for uniformity in the value of the currency, when its augmentation or diminution depends solely on the will of the issuers. But, under the operation of this system, the Bank would not only be prevented from reducing the value of its notes below the value of bullion, but it would also be prevented from raising them above its value.—Should the Directors capriciously limit the quantity of their paper, they would raise its value; and bullion would forthwith be carried to the Bank and exchanged for notes at the rate of 3*l.* 17s. per ounce. The minimum quantity to be offered to the Bank in exchange for its paper, ought also, in order to save trouble, to be limited to 500 or 1000 ounces. And as it is the interest of the Bank to furnish the circulation with such a quantity of paper as would keep its value from rising above the value of bullion, it could not complain of being subjected to a regulation which would never operate except when its issues had been improperly reduced.

With a paper currency convertible into bullion, the Bank would in a great measure be secured against the ill effects of any sudden panic.—Panics generally operate with the greatest effect on the lower classes, or on the holders of small notes; and it is they that, on such occasions, press to the Bank to demand payment. Extensive merchants and money dealers are aware that no Bank, however wealthy, could retire all its notes

in the short space of eight or ten days; and they are also aware that the maintenance of their own credit is intimately connected with the prosperity of the Bank. But such considerations do not influence the holders of small notes; and accordingly we find, that the drain upon the Bank in 1783, and the crisis of 1797, were chiefly brought about by the prevalence of a panic among the retail traders and small farmers. But by fixing the minimum quantity of bullion to be given by the Bank in exchange for its notes at 500 or 1000 ounces, it would not be in the power of the holders of small notes to make any sudden run. Before sending in notes to be exchanged for bullion, meetings would have to be held, and a number of different individuals would have to join together and make a demand in common. A considerable time being thus necessarily required in the adjustment of the preliminary steps of the business, the Bank would be enabled to make the necessary preparations to meet the run; and, what is of still more consequence, since the panic could not, under such a system, operate immediately, it is probable that, by the time preparations had been made for demanding payment from the Bank, it might have altogether subsided. This certainly forms a very strong recommendation of the plan in question; and it is one which was not in the contemplation of Mr Ricardo.

By lessening the danger to be apprehended from sudden runs, and by preventing all demand for bullion for the purposes of internal circulation except as small change, this plan would enable the Bank to carry on business with a comparatively small supply of bullion in its coffers. In ordinary cases, indeed, no bullion would ever be demanded, unless when the Directors had plainly overstepped the proper limit in discounting; and the country would not only be benefited by the profitable employment of the capital which would otherwise be invested in coin, but it would also be benefited by the profitable employment of the greater part of that capital which, previously to the Restriction, had been locked up in the coffers of the Bank.

Were the plan now proposed adopted, it would only be necessary to make Bank of England notes a legal tender. No alteration would be required in the law relative to country banks. These would then, as now, be required to pay their notes, when demanded, in Bank of England notes, or in the legal currency of the country.

It appears, therefore, that by this plan of making notes payable in bullion, we should have all the security against fluctuations in the value of the currency, that we could possess were the Restriction act repealed, and bank notes made payable in

coined money: while we should be able to realize these advantages, without incurring any part of the expense of a gold or silver coinage, except what might be required to effect small payments below one pound; thereby effecting a saving which, on account of Great Britain and Ireland, cannot be estimated at less than *three millions sterling annually.* And it further appears, that the security of the Bank against the pernicious effects of sudden panics among the holders of its notes would be greatly increased, and that the banking business could henceforth be carried on with a much less amount of unproductive capital.

It may perhaps be objected to this plan, that it would have a tendency to perpetuate the crime of forgery—a crime which has, of late years, increased to such an alarming extent. But it must be observed, that the present engraving of Bank of England notes is so very rudely executed, that there is scarcely a bungling mechanic who cannot imitate them with considerable exactness. That the Bank should, for so long a period, have persisted in issuing notes so very miserably executed, is certainly a good deal extraordinary; but now that the public attention has been awakened to the subject, and since it has been demonstrated, that the utmost severity of the criminal law is unable to deter from the commission of crime, where the temptation is so very great, it cannot be doubted that steps will speedily be taken to remove this stigma from our monetary system. That it is practicable to engrave notes in such a manner as to render their forgery a work of extreme difficulty, appears, from the concurring testimony of the ablest artists, to be established beyond all doubt. In America, forgeries used some time ago to be very frequent; but since the bankers have issued notes of a finer fabric, and the engraving of which, without being rendered too complex, is extremely neat and distinct, forgeries have been much less common.

The present prevalence of forgery does not, therefore, afford any ground for refusing to render bank notes payable in bullion. It will not, we presume, be contended, that paper should be entirely banished from circulation; although nothing short of this would be sufficient to secure us against all risk on the score of forgery. In every currency, consisting partly of the precious metals and partly of paper, there will be ample scope for the operations of forgers. Whether ten or twenty millions were added to, or abstrated from, our paper circulation, would not in this respect make any very material difference: Since it is certain, that more forgeries have been committed since the reduction of our paper in 1814 and 1815, than in any previous period of equal duration.

Whatever commodity may be adopted as a circulating medium,—whether our currency shall consist of gold, silver, or paper, or of part of each,—it must, in the nature of things, be impossible completely to guard against the attempts of those who may be inclined to issue spurious money. But it does not appear that there would be any greater difficulty, provided proper precautions were taken, in securing the public against loss from forgery, than from the issuing of base coins; and, considering the many superior and peculiar advantages which must result from the use of a properly regulated paper money, we shall extremely regret, if prejudice induce us to resort to a system of less utility.

'The introduction of the precious metals for the purposes of money, may,' as Mr Ricardo has justly observed, 'with truth be considered as one of the most important steps towards the improvement of commerce, and the arts of civilized life; but it is no less true, that, with the advancement of knowledge and science, we discover that it would be another decided improvement to banish them again from the employment which, during a less enlightened period, they had so advantageously performed.'

It now only remains to inquire, whether bank notes ought to be made exchangeable for *gold* or *silver* bullion; and as our previous remarks have already extended to so considerable a length, we shall endeavour to despatch this part of the subject in as few words as possible.

As the value of gold and silver, or, what is the same thing, the cost of their production, is perpetually varying, not only relatively to other commodities, but also relatively to each other, it is impossible arbitrarily to fix their comparative value. Gold may now, or at any given period, be supposed to be to silver as 15 to 1; but were guineas and shillings coined in that proportion, the discovery of either a gold or silver mine of more than the ordinary degree of productiveness, or the discovery of any abridged process by which labour could be saved in the production of only one of the metals, would be sufficient to derange this proportion. As soon, however, as the mint proportion between the different metals ceases to be the same with that which they bear to each other in the market, then it becomes the obvious interest of every debtor to pay his debts in the metal whose mint valuation is highest.

In 1718, in pursuance of the advice of Sir Isaac Newton, the value of the guinea was fixed at 21 shillings; or, the value of fine gold compared with that of fine silver, was estimated in our coinage at $15\frac{2\,8\,5}{1\,5\,6\,1}$ to 1. But, notwithstanding this reduction, the guinea was still rated at a higher value, compared with silver,

than it ought to have been. This over-valuation is estimated by the late Lord Liverpool to have been at the time equal to 4d. on the guinea, or to $1\frac{1}{3}^{9}$ per cent.; and as the real value of silver relatively to gold continued to increase during the greater part of last century, this difference, which even in the reign of George I. caused all considerable payments to be made in gold, became afterwards much greater. This error in the mint valuation of gold and silver was the cause that, during the long period from 1718 down to the late recoinage, no silver currency of the legal weight and fineness would remain in circulation. The real value of silver coins relatively to gold coins, which were, equally with the former, made a legal tender by the proclamation of 1718, being underrated, they were no sooner issued than they found their way to the melting pot. None, therefore, but very light coins, remained in circulation; and when, in 1797, the further coinage of silver was forbidden, the silver currency was very much debased. But as this currency existed only in a *limited quantity*, it did not, according to the principle already explained, sink in its current value. Though so debased, it was still the interest of debtors to pay in the gold coin. If, indeed, the quantity of this debased silver coin had been very great, or if the mint had issued such debased pieces, it might have been the interest of debtors to pay in this debased money; but its quantity was limited, and it sustained its value; and gold, therefore, was in practice the real standard of currency.

It is not to be imagined that the act of 1774, declaring that silver should not be a legal tender for any debt exceeding 25*l.*, *unless by weight according to the mint standard*, had any effect in causing the general employment of gold as a circulating medium; for, as Mr Ricardo has justly observed,

'This law did not prevent any debtor from paying any debt, however large its amount, in silver currency fresh from the mint. That the debtor did not pay in this metal, was not a matter of chance, nor a matter of compulsion, but wholly the effect of choice. It did not suit him to take silver to the mint, but it did suit him to take gold hither. It is probable, that if the quantity of this debased silver in circulation had been enormously great, and also a legal tender, that a guinea would have been again, as in the reign of William III., worth 30s.; but it would have been the debased shilling that would have fallen in value, and not the guinea that had risen.' *

The absurdity of employing equally two metals as a legal tender for debts, or as a standard of value, was unanswerably

* Principles of Political Economy, &c. p. 520.

demonstrated by Mr Locke and Mr Harris, and has been noticed by every subsequent writer; but so slow is the progress of improvement, that it was not till 1816 that it was enacted, that gold only should be a legal tender for any sum exceeding 21 shillings.

Whether, however, gold should, in preference to silver, have been adopted as the standard of exchangeable value, is a question which is not so easy of solution and on which there is a great diversity of opinion. Mr Locke, Mr Harris and Mr Ricardo, are decidedly of opinion, that silver is much better fitted than gold for a standard; while Dr Smith, although he has not expressed himself explicitly on the subject, appears to think gold ought to be adopted in preference; and this opinion has been very ably supported by the late Lord Liverpool in his valuable work 'on the Coins of the Realm.'

It would be presumption in us to attempt to decide on a matter, respecting which the ablest political economists differ thus widely. We confess, however, that we are inclined to concur in opinion with those who think silver ought to be adopted as the standard. Whatever metal is set apart for this purpose, it will be a very difficult task to preserve the currency from falling into a deranged state, if it be not used as well in small as in large payments.

'The *integer*,' says Mr Harris, 'and its several parts, should bear an exact and due proportion of value to each other; and this would be impossible, if they were made of different materials. There must be coins of about the value of shillings and sixpences; and it would be better if we had some that were still smaller: Those sorts of coins are the most frequently wanted, and there is no doing without them. But a coin of a shilling, or even of half-a-crown value, would be too small in gold; and, therefore, at present, gold is much too valuable for a standard of money. And it would be a ridiculous and vain attempt, to make a standard integer of gold, whose parts should be silver; or to make a motley standard, part gold and part silver.' *

Silver is also much more steady in its value than gold. Almost all foreign countries have adopted it as their standard; and the demand and supply is comparatively regular: while the substitution of paper as the general circulating medium, would entirely remove the great objection against silver,—its being too bulky to be advantageously used in large payments.

Whether gold or silver be adopted as the standard of our currency, that will not in the least affect its total value; for the quantity of metal employed as money, or the quantity of metal

* Essay on Money and Coins, Part 1st, p. 60.

for which paper is the substitute, must always be in an inverse proportion to the value of that metal. If gold be continued as the standard, fifteen times less of that metal than of silver would be required; or, which is the same thing, if the denomination of a pound were given to any *specific weight* of gold and silver, fifteen times more of such silver pounds would be required to serve as a currency, or as bullion to exchange for notes,—fifteen to one being about the proportion which gold bears in value to silver. And hence it would make no difference as to the *expense* of a paper currency, to which a subsidiary metallic currency, for the effecting of small payments, should be attached, whether the bullion to be given in exchange for notes, and the subsidiary currency, consisted of gold or silver. But as gold is too valuable, in proportion to its bulk, to be coined into pieces of the value of a shilling or a sixpence, and as it is desirable to have the subsidiary currency composed of the same metal with that for which paper should be rendered exchangeable, silver ought to be adopted as the standard.

If, however, it should be deemed inexpedient to change the standard, it would not be proper to make any alteration on the late act allowing a seignorage of 6 per cent. on the silver coin; as the exacting of this seignorage will, after bank notes have been rendered payable in gold bullion, prevent all risk of the sudden disappearance of the subsidiary currency. Neither, on the supposition that silver were to be assumed as the standard, could there be any valid objection against continuing the seignorage: For, as notes would be exchangeable for bullion, and not for coin, it would not cause any reduction of the standard, while it would have the beneficial effect of preventing the too great multiplication of the subsidiary currency.

But, whatever determination Parliament may come to on this point, we trust the ensuing Session will not be allowed to terminate without some decided step being taken to restore to the country its ancient security against fluctuations in the value of money, either by reverting to our old system of cash payments, or by adopting the preferable system which it has been our object to point out and explain. It is essential to the best interests of the nation, that our present disgraceful monetary system should be put an end to. We do not mean by this to throw out any reflection against the conduct of the Directors of the Bank of England. They have used the extraordinary and almost unlimited powers vested in them by the Restriction, with a moderation for which they are entitled to the public gratitude, and which could not rationally have been expected from the

unrestrained forbearance of any body of men. Still, however, it is certain, that, during the twenty last years, fluctuations, of the most ruinous nature, have taken place in the value of the currency. From 1809 to 1815, both inclusive, paper money was depreciated below its value in gold from 20 to 30 per cent. During this period, therefore, landlords whose estates were let, stockholders and annuitants of all descriptions, and, in short, all classes who could not raise the nominal value of their incomes proportionably to the fall in the real value of money, suffered a real diminution of their incomes, corresponding to the extent of the depreciation. The injustice that, in a different state of things, would have been done to the public creditors, who had lent the country gold, or paper equivalent to gold, by *raising the denomination of the coin*, however gross and palpable, would not have been greater than what was actually done in paying them with this depreciated paper. The depreciation, too, had well nigh put an end to the practice of granting long leases,—a practice to which, more than to any thing else, the high cultivation of the country is to be ascribed. Landlords would not let their farms for 20 or 30 years, when they saw the rapid advance that was every day taking place in prices. The length of leases was generally reduced to half the usual period; and clauses were introduced, giving the landlord a power to resume possession during their currency. Nothing but the prospect of a continued rise of prices, or, in other words, a continued depreciation of paper, could have induced tenants to enter into such stipulations. They were altogether subversive of a sober and steady spirit of industry, and were only fitted for the fictitious state of things in which they were adopted.

But the mischief occasioned by the sudden restriction of the paper currency, and the consequent rapid augmentation of its value, has been still greater than what was previously caused by its increase. It is to this that the late unprecedented destruction of agricultural capital, and the wide-spread misery by which the farming class has been nearly overwhelmed, is chiefly to be ascribed. The first fall in the price of agricultural produce, in the autumn of 1813, and in the early part of 1814, was certainly owing to importations from the Continent. But its fall, in the latter part of 1814 and 1815, was not so much owing to that circumstance, as to the universal reduction of the issues of the country banks, and to the failure of an immense number (about 240) of these establishments. That support on which too many of the agriculturists rested, was torn away at the time it was most necessary. Credit fell to the ground, mutual confidence entirely ceased, and the fall of the price of raw produce,

as it was chiefly occasioned by a rise in the value of money, was accompanied by a proportionable increase of rent. It was then that all the defects of the fictitious system, on which we had been proceeding, became apparent. Thousands, who but a twelvemonth before considered themselves wealthy, at once sunk, as if by enchantment, and, without any fault of their own, into the abyss of poverty!

With the exception of the misery occasioned by the destruction of the assignats in France, we do not think that the misery and subversion of private fortunes occasioned by the late sudden reduction of Bank paper in this country, has ever been paralleled. Nor was this misery of a temporary or evanescent character. Its pernicious effects will long continue to be felt, not only by individuals, but by the nation at large. During the period in which the depreciation was greatest, the State borrowed several hundred millions. And it will now have this money, which was borrowed when a bank note was not worth more than 14s. or 15s., to pay, when its value is at par. All those taxes, too, which were imposed when the currency was thus reduced, must now, though not nominally, be really increased. And it may be questioned, whether, making allowance for the difference in the value of money, the country was not *less* heavily burdened in 1812 and 1813, than it is at this moment, notwithstanding we have now got rid of the Income-tax and war malt duty.

On every account, therefore, it is of infinite importance that the value of the currency should be rendered as little fluctuating as possible; or, in other words, that the Bank should be obliged to give cash or bullion in exchange for its notes. When a public debt has been contracted, a depreciation of paper induces what is really equivalent to a national bankruptcy. Now surely it is too much to entrust any corporate body, however respectable, with the power of reducing the national credit to nothing, and of ruining all those living on fixed incomes. But it is still more dangerous to entrust them with the power of enriching annuitants and stockholders at the expense of the productive classes,—or to arm them with the prerogative of *imposing indefinite taxes:* For they exercise that power most effectually, when, by diminishing their paper, and, consequently, raising its value, they reduce the money price of commodities, and oblige a farmer to sell two quarters of wheat, or a manufacturer two yards of cloth, to pay those taxes for which one had formerly sufficed. Such a power vested in the hands of a body unknown to the Constitution, and acting under no responsibility, is perfectly anomalous in a free country, and is altogether subversive of the security of property.

While it is in the power of the Directors of the Bank of England to increase or diminish the currency of the country at their pleasure, no person can form any probable estimate of the value of his property at any period but a little remote. The estate that is purchased to-day, and reckoned a good bargain, may, by the Bank's limiting its discounts, or withdrawing its notes from circulation, be rendered, in a very short time, not worth half the sum paid for it: And, on the contrary, if the Directors were more liberal in granting discounts, and increased the number of their notes in circulation, either by lending to the State or to individuals, the estate might speedily become worth double the money, that is, double the paper it had been sold for. This artificial and unnatural system, renders the *money value* of all the property in the empire dependent on the views and opinions—the whims and caprices—of *twenty-four* individuals. It is their fiat alone which makes one transaction good, and another bad. They hold the scale of value, and change its graduation as they judge proper.

The fate that attended the late issue of *three millions* of sovereigns, *not one of which remained in circulation three months afterwards*, will, we should hope, prevent any further attempts to make gold coins of the legal weight and fineness, circulate in company with an inconvertible paper. Nothing but rendering bank notes exchangeable for cash or bullion, can possibly restore the currency to a sound state. Every other scheme for the accomplishment of this most desirable object, will be found completely delusive and ineffectual.

ART. IV. LETTERS *from the* Hon. HORACE WALPOLE *to* GEORGE MONTAGU, Esq. *From the Year* 1736 *to* 1770. 4to. pp. 446. London, Rodwell & Martin.

HORACE WALPOLE was by no means a venerable or lofty character:—But he has here left us another volume of gay and graceful letters, which, though they indicate no peculiar originality of mind, or depth of thought, and are continually at variance with good taste and right feeling, still give a lively and amusing view of the time in which he lived. He was indeed a garrulous *old* man nearly all his days; and, luckily for his gossiping propensities, he was on familiar terms with the gay world, and set down as a man of genius by the Princess Amelia, George Selwyn, Mr Chute, and all persons of the like talents and importance. His descriptions of court dresses, court

revels, and court beauties, are in the highest style of perfection, —sprightly, fantastic and elegant: And the zeal with which he hunts after an old portrait or a piece of broken glass, is ten times more entertaining than if it were lavished on a worthier object. He is indeed the very prince of Gossips,—and it is impossible to question his supremacy, when he floats us along in a stream of bright talk, or shoots with us the rapids of polite conversation. He delights in the small squabbles of great politicians and the puns of George Selwyn,—enjoys to madness the strife of loo with half a dozen bitter old women of quality,—revels in a world of chests, cabinets, commodes, tables, boxes, turrets, stands, old printing, and old china,— and indeed lets us loose at once amongst all the frippery and folly of the last two centuries, with an ease and a courtesy equally amazing and delightful. His mind, as well as his house, was piled up with Dresden china, and illuminated through painted glass; and we look upon his heart to have been little better than a case full of enamels, painted eggs, ambers, lapis-lazuli, cameos, vases and rock-crystals. This may in some degree account for his odd and quaint manner of thinking, and his utter poverty of feeling:—He could not get a plain thought out of that cabinet of curiosities, his mind;—and he had no room for feeling,—no place to plant it in, or leisure to cultivate it. He was at all times the slave of elegant trifles; and could no more screw himself up into a decided and solid personage, than he could divest himself of petty jealousies and miniature animosities. In one word, every thing about him was in little; and the smaller the object, and the less its importance, the higher did his estimation and his praises of it ascend. He piled up trifles to a colossal height—and made a pyramid of nothings ' most marvellous to see. '

His political character was a heap of confusion: but the key to it is easy enough to find. He united an insufferable deal of aristocratical pretension with Whig professions,—and, under an assumed carelessness and liberality, he nourished a petty anxiety about court movements and a degree of rancour towards those who profited by them, which we should only look for in the most acknowledged sycophants of Government. He held out austere and barren principles, in short, to the admiration of the world,—but indemnified himself in practice by the indulgence of all the opposite ones. He wore his horse-hair shirt as an *outer* garment; and glimpses might always be caught of a silken garment within. He was truly of ' outward show elaborate; of inward less exact. ' But, setting his political character—or rather the want of it—and some few private failings, and a good many

other questionable peculiarities, aside,—we find Walpole an amusing companion, and should like to have such a chronicler of small matters every fifty or sixty years;—or it might be better, perhaps, if, like the aloe, they should blossom but once in a century. With what spirit does he speak of the gay and noble visitors at Strawberry Hill! How finely does he group, in his letters, the high-born and celebrated beauties of the court, with whom it was his fortune and his fancy to associate!

'Strawberry Hill is grown a perfect Paphos; it is the land of beauties. On Wednesday, the Dutchesses of Hamilton and Richmond, and Lady Ailesbury, dined there; the two latter staid all night. There never was so pretty a sight as to see them all sitting in the shell. A thousand years hence, when I begin to grow old, if that can ever be, I shall talk of that event, and tell young people how much handsomer the women of my time were than they will be. Then I shall say, "Women alter now: I remember Lady Ailesbury looking handsomer than her daughter the pretty Dutchess of Richmond, as they were sitting in the shell on my terrace, with the Dutchess of Richmond, one of the famous Gunnings," &c. &c. Yesterday, t'other famous Gunning dined there. She has made a friendship with my charming niece, to disguise her jealousy of the new Countess's beauty: there were they two, their Lords, Lord Buckingham, and Charlotte. You will think that I did not choose men for my parties so well as women. I don't include Lord Waldegrave in this bad election.'

All the rest is in the same style: and lords and ladies are shuffled about the whole work as freely as court cards in a party at Loo. Horace Walpole, to be sure, is always Pam: but this only makes the interest greater, and the garrulity more splendid. He is equally sprightly and facetious, whether he describes a King's death and funeral, or a quirk of George Selwyn; and is nearly as amusing when he recounts the follies and the fashions of the day, as when he affects to be patriotic, or solemnizes into the sentimental. His style is not a bit less airy when he deals with 'the horrid story of Lord Ferrers's murdering his steward,' than when it informs us that 'Miss Chudleigh has called for the council books of the subscription concert, and has struck off the name of Mrs Naylor.' He is equally amusing whether he records the death of the brave Balmerino, or informs us that 'old Dunch is dead.'

The letters of eminent men make, to our taste, very choice and curious reading; and, except when their publication becomes a breach of honour or decorum, we are always rejoiced to meet with them in print. We should except, perhaps, the letters of celebrated warriors; which, for the most part, should only be published in the Gazette. But, setting these heroes

aside, whose wits, Pope has informed us, 'are kept in ponderous vases,' letters are certainly the honestest records of great minds, that we can become acquainted with; and we like them the more, for letting us into the follies and treacheries of high life, the secrets of the gay and the learned world, and the mysteries of authorship. We are ushered, as it were, behind the scenes of life; and see gay ladies and learned men, the wise, the witty, and the ambitious, in all the nakedness, or undress at least, of their spirits. A poet, in his private letters, seldom thinks it necessary to keep up the farce of feeling: but casts off the trickery of sentiment, and glides into the unaffected wit, or sobers quietly into the honest man. By his published works, we know that an author becomes a 'Sir John with all Europe;' and it can only be by his letters that we discover him to be 'Jack with his brothers and sisters, and John with his familiars.' This it is that makes the private letters of a literary person so generally entertaining. He is glad to escape from the austerity of composition, and the orthodoxy of thought; and feels a relief in easy speculations or ludicrous expressions. The finest, perhaps, in our language, are eminently of this description—we mean those of Gray to his friends or literary associates. His poetry is too scholastic and elaborate, and is too visibly the result of laborious and anxious study. But, in his letters, he at once becomes an easy, and graceful, and feeling writer. The composition of familiar letters just suited his indolence, his taste, and his humour. His remarks on poetry are nearly as good as poetry itself;—his observations on life are full of sagacity and fine understanding;—and his descriptions of natural scenery, or Gothic antiquities, are worth their weight in gold. Pope's letters, though extremely elegant, are failures as letters. He wrote them to the world, not to his friends; and they have therefore very much the air of universal secrets. Swift has recorded his own sour mind in many a bitter epistle; and his correspondence remains a stern and a brief chronicle of the time in which he lived. Cowper hath unwittingly beguiled us of many a long hour, by his letters to Lady Hesketh; and in them we see the fluctuations of his melancholy nature more plainly, than in all the biographical dissertations of his affectionate editor.——But we must not make catalogues,—nor indulge longer in this eulogy on letter-writing. We take a particular interest, we confess, in what is thus spoken aside, as it were, and without a consciousness of being overheard;—and think there is a spirit and freedom in the tone of works written for the post, which is scarcely ever to be found in those written for the press.

We are much more edified by one letter of Cowper, than we should be by a week's confinement and hard labour in the metaphysical Bridewell of Mr Coleridge; and a single letter from the pen of Gray, is worth all the pedlar-reasoning of Mr Wordsworth's Eternal Recluse, from the hour he first squats himself down in the sun to the end of his preaching. In the first we have the light unstudied pleasantries of a wit, and a man of feeling;—in the last we are talked to death by an arrogant old proser, and buried in a heap of the most perilous stuff and the most dusty philosophy.

But to come back to the work before us.—Walpole evidently formed his style upon that of Gray, with whom he travelled; and, with his own fund of pleasantry and sarcasm, we know of no other writer whom he could so successfully have studied. There are some odd passages on Gray, scattered up and down the present volume, which speak more for the poet than for the justice or friendship of Walpole. In one letter he says,

'The first volume of Spencer is published with prints designed by Kent;—but the most execrable performance you ever beheld. The graving not worse than the drawing; awkward knights, scrambling Unas, hills tumbling down themselves, no variety of prospect, and three or four perpetual spruce firs.—Our charming Mr Bentley is doing Mr Gray as much more honour as he deserves than Spencer!'

This is indeed a lordly criticism. We really never saw so much bad taste condensed into so small a portion of prose. But he next shows us what ladies of the court think of men of letters, and how lords defend them.

'My Lady Ailesbury has been much diverted, and so will you too. Gray is in their neighbourhood. My Lady Carlisle says *he is extremely like me in his manner*. They went a party to dine on a cold loaf, and passed the day. Lady A. protests he never opened his lips but once, and then only said, "Yes, my Lady, I believe so."

'I agree with you most absolutely in your opinion about Gray; he is the worst company in the world. From a melancholy turn, from living reclusely, and from a little too much dignity, he never converses easily. All his words are measured and chosen, and formed into sentences. His writings are admirable. He himself is not agreeable.'

But it is not only to his particular friends that he is thus amiably candid. Two other great names are dealt with in the same spirit in the following short sentence.

'Dr Young has published a new book, on purpose, he says himself, to have an opportunity of telling a story that he has known these forty years. Mr Addison sent for the young Lord Warwick, as he was dying, to show him in what peace a Christian could die. Unluckily he died of brandy. Nothing makes a Christian die in

peace like being a maudlin! But don't say this in Gath, where you are.'

It is worthy of remark, indeed, that Walpole never speaks with respect of any man of genius or talent, and, least of all, of those master spirits who 'have got the start of this majestic world.' He envied all great minds; and shrunk from encountering them, lest his own should suffer by the comparison. He contrived indeed to quarrel with all his better-spirited friends. Even the gentleman to whom these epistles were addressed, a correspondent of three score years' standing, fell at last under his displeasure, and was dismissed his friendship. He turned out the domestics of the heart as easily as those of the house; with little or no notice, and with threats of giving them a bad character as a return for their past services. He wished to have genius to wait upon him; but was always surprised that it would not submit to be a servant of all work. Poor Bentley, of whom we hear praises 'high fantastical' in the early letters, meets with but scurvy treatment the moment he gets out of fashion with his half-patron and half-friend. He is all spirit, goodness and genius, till it falls to his turn to be disliked; and then the altered patron sneers at his domestic misfortunes, depreciates his talents, and even chuckles at the failure of a play which the artist's necessities required should be successful. The following is the ill-natured passage to which we allude.

'No, I shall never cease being a dupe, till I have been undeceived round by every thing that calls itself a virtue. I came to town yesterday, through clouds of dust, to see The Wishes, and went actually feeling for Mr Bentley, and full of the emotions he must be suffering. What do you think, in a house crowded, was the first thing I saw? Mr and Madame Bentley perched up in the front boxes, and acting audience at his own play! No, all the impudence of false patriotism never came up to it. Did one ever hear of an author that had courage to see his own first night in public? I don't believe Fielding or Foote himself ever did; and this was the modest, bashful Mr Bentley, that died at the thought of being known for an author even by his own acquaintance! In the stage-box was Lady Bute, Lord Halifax, and Lord Melcombe. I must say, the two last entertained the house as much as the play. Your King was prompter, and called out to the actors every minute to speak louder. The other went backwards and forwards behind the scenes, fetched the actors into the box, and was busier than Harlequin. The *curious* prologue was not spoken—the whole very ill acted. It turned out just what I remembered it: the good parts extremely good; the rest very flat and vulgar, &c.'

A poor painter of the name of Müntz is worse off even than Bentley; and is abused in a very ungenerous way for want of

gratitude, and unmerciful extortion. There is a sad want of feeling and dignity in all this; but the key to it is, that Walpole was a miser. He loved the arts after a fashion; but his avarice pinched his affections. He would have had 'that which he esteemed the ornament of life,' but that he 'lived a coward in his own esteem.' The following haggling passage in one of his letters would disgrace a petty merchant in Duke's Place, in a bargain for the reversion of an old pair of trowsers.

'I am disposed to prefer the younger picture of Madame Grammont by Lely; but I stumbled at the price; twelve guineas for a copy in enamel is very dear. Mrs Vesey tells me his originals cost sixteen, and are not so good as his copies. I will certainly have none of his originals. His, what is his name? I would fain resist this copy; I would more fain excuse myself for having it. I say to myself it would be rude not to have it, now Lady Kingsland and Mr Montagu have had so much trouble. Well—*I think I must have it*, as my Lady Wishfort says, *why does not the fellow take me?* Do try if he will take ten;—remember it is the younger picture.'

Thus did he coquet with his own avarice. Of poor Mason, another of his dear friends, he speaks thus spitefully—

'Mr Mason has published another drama, called Caractacus. There are some incantations poetical enough, and odes so Greek as to have very little meaning. But the whole is laboured, uninteresting, and no more resembling the manners of Britons than of Japanese. It is introduced by a piping elegy; for Mason, in imitation of Gray, *will cry and roar all night*, without the least provocation.'

Mason might have endured the paltriness of this remark, if he could have seen the following pertinent remark on the Cymbeline of Shakespeare.

'You want news. I must make it if I send it. To change the dulness of the scene, I went to the play, where I had not been this winter. They are so crowded, that though I went before six, I got no better place than a fifth row, where I heard very ill, and was pent for five hours without a soul near me that I knew. It was Cymbeline; and appeared to me as long as if every body in it went really to Italy in every act, and back again. With a few pretty passages and a scene or two, it is so absurd and tiresome, that I am persuaded Garrick * * * *'

This precious piece of criticism is cut short; whether from the sagacity of the editor or the prudence of the publishers, we cannot say. But it is much to be lamented. For it must have been very edifying to have seen Shakespeare thus pleasantly put down with a dash of the Honourable Mr Walpole's pen—as if he had never written any thing better than the Mysterious Mother.

A conversation is here recorded between Hogarth and Walpole, which seems to us very curious and characteristic: though

we cannot help smiling a little at the conclusion, where our author humanely refrains from erasing the line of praise which he had 'consecrated' to Hogarth;—as if the painter would infallibly have been damned into oblivion by that portentous erasure. But he is of the stuff that cannot die. With many defects, he was a person of great and original powers—a true and a terrific historian of the human heart and his works will be remembered and *read*, as long as men and women retain their old habits, passions and vices. The following is the conversation of which we have spoken.

'*Hogarth.*—I am told you are going to entertain the town with something in our way. *Walpole.* Not very soon, Mr Hogarth.—*H.* I wish you would let me have it to correct; I should be very sorry to have you expose yourself to censure; we painters must know more of those things than other people. *W.* Do you think nobody understands painting but painters? *H.* Oh! so far from it, there's Reynolds who certainly has genius; why but t'other day he offered a hundred pounds for a picture that I would not hang in my cellars; and indeed to say truth, I have generally found that persons, who had studied painting least, were the best judges of it; but what I particularly wished to say to you was about Sir James Thornhill (you know he married Sir James's daughter); I would not have you say any thing against him: There was a book published some time ago, abusing him, and it gave great offence. He was the first that attempted history in England; and I assure you, some Germans have said that he was a very great painter. *W.* My work will go no lower than the year one thousand seven hundred, and I really have not considered whether Sir J. Thornhill will come into my plan or not: If he does, I fear you and I shall not agree upon his merits. *H.* I wish you would let me correct it; besides I am writing something of the same kind myself—I should be sorry we should clash. *W.* I believe it is not much known what my work is; very few persons have seen it. *H.* Why it is a critical history of painting is it not? *W.* No, it is an antiquarian history of it in England. I bought Mr Vertue's MSS. and I believe the work will not give much offence; besides if it does I cannot help it: when I publish any thing I give it to the world to think as they please. *H.* Oh! if it is an antiquarian work we shall not clash; mine is a critical work; I don't know whether I shall ever publish it. It is rather an apology for painters. I think it is owing to the good sense of the English that they have not painted better. *W.* My dear Mr Hogarth, I must take my leave of you; you now grow too wild—and I left him. If I had staid, there remained nothing but for him to bite me. I give you my honour this conversation is literal and, perhaps as long as you have known Englishmen and painters you never met with any thing so distracted. I had consecrated a line to his genius (I mean for wit) in my preface; I shall not erase it; but I hope no one will ask me if he is not mad.'

We do not think he was mad:—But the self-idolatry of fanciful persons often exhibits similar symptoms. A man of limited genius, accustomed to contemplate his own conceptions, has long settled his ideas as to every thing, and every other person existing in the world. He thinks nothing truly bright that does not reflect his own image back upon himself;—nothing truly beautiful, that is not made so by the lustre of his own feelings. He lives in a sort of chaste singleness; and holds every approach of a stronger power as dangerous to his solitary purity. He thinks nothing so important as his own thoughts—nothing so low, that his own fancy cannot elevate into greatness. He sees only 'himself and the universe;' and will 'admit no discourse to his beauty.' He is himself—alone! If such a man had had a voice in the management of the flood, he would have suffered no creeping thing to enter the ark but himself; and would have floated about the waters for forty days in lonely magnificence.

Passages of the kind, we have hitherto instanced, are very plentiful in all parts of the work; and we are glad they are so numerous,—because they will set Walpole's higher pretensions at rest with posterity. Time is a disinterested personage, and does his work on dull or rash men fairly and effectually. He knows nothing of criticism but its austerity and its sarcasm. He cannot feel poetry; and has, therefore, no right to settle its laws, or imitate its language. His taste in painting was affected and dogmatical. His conduct to men of genius was a piece of insolence, which Posterity is bound to resent! The true heirs of fame are not to be disturbed in the enjoyment of their property, by every insolent pretender who steps in and affects a claim upon it. The world is called on 'to defend the right.'

To come, however, to the better side of our subject.—Walpole is, as we have said, an inimitable gossip,—a most vivacious garrulous historian of fair-haired women, and curious blue china. His garrulity, moreover, hath a genius of its own—and a transparent tea-cup lets in the light of inspiration upon it, and makes it shine with colours nigh divine. An inlaid commode is, with him, the mind's easy chair. We shall select a few passages from the letters before us, which, for pleasantry, ease and alertness, are by far the gayest *morceau* of description we have read of late. We may begin with a curious anecdote of Fielding, which is almost as interesting as any thing in the book. Thus it is—

'Take sentiments out of their pantoufles, and reduce them to the infirmities of mortality, what a falling off there is! I could not help

laughing in myself t'other day, as I went through Holborn in a very hot day, at the dignity of human nature. All those foul old-clothes women panting without handkerchiefs, and mopping themselves all the way down within their loose jumps. Rigby gave me as strong a picture of nature. He and Peter Bathurst, t'other night, carried a servant of the latter's, who had attempted to shoot him, before Fielding: who, to all his other vocations, has, by the grace of Mr Lyttleton, added that of Middlesex Justice. He sent them word that he was at supper; that they must come next morning. They did not understand that freedom, and ran up, where they found him banqueting with a blind man, a w——, and three Irishmen, on some cold mutton and a bone of ham, both in one dish, and the dirtiest cloth. He never stirred, nor asked them to sit. Rigby, who had seen him so often come to beg a guinea of Sir C. Williams, and Bathurst, at whose father's he had lived for victuals, understood that dignity as little, and pulled themselves chairs,—on which he civilized.'

It is very certain that the writings of men are coloured by their indolence, their amusements, and their occupations; and this little peep into Fielding's private hours, lets us at once into his course of studies, and is an admirable illustration of his Tom Jones, Jonathan Wild, and other novels. We are taken into the artist's workshop, and shown the models from which he works; or rather, we break in upon him at a time when he is copying from the *life*. It is a very idle piece of morality, to lament over Fielding for this low indulgence of his appetite for character. If he had been found quietly at his tea, he would never have left behind him the name he has done. There is nothing of a tea inspiration in any of his novels. They are assuredly the finest things of the kind in the language; and we are Englishmen enough to consider them the best in any language. They are indubitably the most English of all the works of Englishmen.

The descriptions of Lord Ferrers's fatal murder, and of Balmerino's death, are given with considerable spirit—(our author, indeed, is extremely *piquant* in matters of life and death); and we are puzzled which to select for our readers. They are both strongly illustrative of the times in which Walpole and the heroes of them lived; but we cannot afford room for them both; and we choose the latter on Lord Ferrers,—not because it is better written, or that the subject is more interesting, but because the book before us is open at that part, and because we would not idly meddle with so heroic a fall as that of the Lord Balmerino.

'The extraordinary history of Lord Ferrers is closed: He was executed yesterday. Madness, that in other countries is a disorder, is here a systematic character: It does not hinder people from form-

ing a plan of conduct, and from even dying agreeably to it. You remember how the last Ratcliffe died with the utmost propriety; so did this horrid lunatic, coolly and sensibly. His own and his wife's relations had asserted that he would tremble at last. No such thing; he shamed heroes. He bore the solemnity of a pompous and tedious procession of above two hours, from the Tower to Tyburn, with as much tranquillity as if he was only going to his own burial, not to his own execution. He even talked of indifferent subjects in the passage; and if the sheriff and the chaplains had not thought that they had parts to act too, and had not consequently engaged him in most particular conversation, he did not seem to think it necessary to talk on the occasion. He went in his wedding-clothes; marking the only remaining impression on his mind. The ceremony he was in a hurry to have over. He was stopped at the gallows by a vast crowd; but got out of his coach as soon as he could, and was but seven minutes on the scaffold; which was hung with black, and prepared by the undertaker of his family at their expense. There was a new contrivance for sinking the stage under him, which did not play well; and he suffered a little by the delay, but was dead in four minutes. The mob was decent, and admired him, and almost pitied him; so they would Lord George, whose execution they are so angry at missing. I suppose every highwayman will now preserve the blue handkerchief he has about his neck when he is married, that he may die like a lord. With all his madness, he was not mad enough to be struck with his aunt Huntingdon's sermons. The Methodists have nothing to brag of his conversion; though Whitfield prayed for him, and preached about him. Even Tyburn has been above their reach. I have not heard that Lady Fanny dabbled with his soul; but I believe she is prudent enough to confine her missionary zeal to subjects where the body may be her perquisite.'

The following is the account of Walpole's visit to Newsted Abbey,—the seat of the Byrons.

'As I returned, I saw Newsted and Althorpe; I like both. The former is the very abbey. The great east window of the church remains, and connects with the house; the hall entire, the refectory entire, the cloister untouch'd, with the ancient cistern of the convent, and their arms on; It is a private chapel, quite perfect. The park, which is still charming, has not been so much unprofaned: The present lord has lost large sums, and paid part in old oaks; five thousand pounds of which have been cut near the house. In recompense, he has built two baby forts, to pay his country in castles for damage done to the navy; and planted a handful of Scotch firs, that look like ploughboys dress'd in old family liveries for a public day. In the hall is a very good collection of pictures, all animals; the refectory, now the great drawing room, is full of Byrons; the vaulted roof remaining, but the windows have new dresses making for them by a Venetian tailor.'

This is a careless, but happy description, of one of the noblest mansions in England; and it will *now* be read with a far deeper interest than when it was written. Walpole saw the seat of the Byrons, old, majestic, and venerable;—but he saw nothing of that magic beauty which Fame sheds over the habitations of Genius, and which now mantles every turret of Newsted Abbey. He saw it when Decay was doing its work on the cloister, the refectory, and the chapel, and all its honours seemed mouldering into oblivion. He could not know that a voice was soon to go forth from those antique cloisters, that should be heard through all future ages, and cry, 'Sleep no more, to all the house.' Whatever may be its future fate, Newsted Abbey must henceforth be a memorable abode. Time may shed its wild flowers on the walls, and let the fox in upon the court-yard and the chambers. It may even pass into the hands of unlettered pride or plebeian opulence.—But it has been the mansion of a mighty poet. Its name is associated to glories that cannot perish—and will go down to posterity in one of the proudest pages of our annals.

Our author is not often pathetic: But there are some touches of this sort in the account of his visit to Houghton—though the first part is flippant enough.

'The surprise the pictures gave me is again renewed. Accustomed for many years to see nothing but wretched daubs and varnished copies at auctions, I look at these as enchantment. My own description of them seems poor; but, shall I tell you truly, the majesty of Italian ideas almost sinks before the warm nature of Flemish colouring. Alas! don't I grow old? My young imagination was fired with Guido's ideas; must they be plump and prominent as Abishag to warm me now? Does great youth feel with poetic limbs, as well as see with poetic eyes? In one respect I am very young; I cannot satiate myself with looking: an incident contributed to make me feel this more strongly. A party arrived, just as I did, to see the house; a man, and three women in riding dresses, and they rode post through the apartments. I could not hurry before them fast enough; they were not so long in seeing for the first time, as I could have been in one room, to examine what I knew by heart. I remember formerly being often diverted with this kind of *seers;* they come—ask what such a room is called—in which Sir Robert lay—write it down—admire a lobster or a cabbage in a market piece—dispute whether the last room was green or purple—and then hurry to the inn for fear the fish should be over-dressed. How different my sensations! Not a picture here but recalls a history; not one but I remember in Downing-street or Chelsea, where queens and crowds admired them,—though seeing them as little as these travellers!'

There is some appearance of heart, too, in his account of Lady Waldegrave's sufferings on the death of her husband.

She was a beautiful woman; and Walpole seems to have been really kind to her.

'I had not risen from table, when I received an express from Lady Betty Waldegrave, to tell me that a sudden change had happened; that they had given him James's powders, but that they feared it was too late; and that he probably would be dead before I could come to my niece, for whose sake she begged I would return immediately. I was indeed too late! Too late for every thing.—Late as it was given, the powder vomited him even in the agonies. Had I had power to direct, he should never have quitted James:—But these are vain regrets!—Vain to recollect how particularly kind he, who was kind to everybody, was to me! I found Lady Waldegrave at my brother's. She weeps without ceasing; and talks of his virtues and goodness to her in a manner that distracts one. My brother bears this mortification with more courage than I could have expected from his warm passions: but nothing struck me more than to see my rough savage Swiss, Louis, in tears as he opened my chaise. —I have a bitter scene to come. To-morrow morning I carry poor Lady Waldegrave to Strawberry. Her fall is great, from that adoration and attention that he paid her,—from that splendour of fortune, so much of which dies with him,—and from that consideration which rebounded to her from the great deference which the world had for his character. Visions, perhaps. Yet who could expect that they would have passed away even before that fleeting thing, her beauty!'

This lady seems to have been afflicted nearly beyond the hope of consolation. Nevertheless, she married again. It is not a bad sign, we believe, when a widow sets in with a good wet grief: she has the better chance of a fine day. Philosophers assert, indeed, that it is possible for a woman to cry a sorrow clean out:—and we must confess, we have now and then heard of such things.

We must draw to a close now with our quotations—though we wish we had room for more. For the author is exceedingly amusing in his attempt at tracing his descent from Chaucer;—in his remarks on old and young kings,—in his practical and prospective speculations on gout in the feet and stomach,—and in his picture of himself, 'with sweet peas stuck in his hair!' We should have liked, too, to extract a *bon mot* or two of George Selwyn, whose love of puns and executions was equally insatiable; but they stick too fast in the looser texture of his historian, to be disengaged with any moderate labour. The following little passage is very pleasingly written.

'For what are we taking Belleisle?—I rejoiced at the little loss we had on landing: For the glory, I leave it to the Common Council. I am very willing to leave London to them too, and do pass half the week at Strawberry, where my two passions, lilacs and nightingales,

are in full bloom. I spent Sunday as if it were Apollo's birth-day; Gray and Mason were with me, and we listened to the nightingales till one o'clock in the morning. Gray has translated two noble incantations from the Lord knows who, a Danish Gray, who lived the Lord knows when. They are to be enchased in a history of English Bards, which Mason and he are writing, but of which the former has not written a word yet, and of which the latter, if he rides Pegasus at his usual foot pace, will finish the first page two years hence!'

We cannot understand the Editor's drift in leaving so many names unprinted. The respect for the living has been carried, we think, to a most awful extent: for names are continually left blank, which would visit their sins, if at all, upon the third or fourth generation. In many instances, too, the allusions are as plain as if the names had been written at full length. At p. 185, for example, we perceive a delicate attention of this sort to the family of Northumberland,—though few readers can be so respectfully uninformed as to be at all perplexed by the suppression. Chevy Chase has not left the Douglas and the Percy in such comfortable security. The mystical passage is as follows.

'Lady R——— P——— pushed her on the birth-night against a bench. The Dutchess of Grafton asked if it was true that Lady R——— kicked her? "Kick me, Madam! when did you ever hear of a P——y that took a kick?" I can tell you another anecdote of that house, that will not divert you less. Lord March making them a visit this summer at Alnwic Castle, my Lord received him at the gate and said, "I believe, my Lord, this is the first time that ever a Douglas and a P——y met here in friendship." Think of this from a Smithson to a true Douglas.'

The beauty of the thing too, is, that Smithson (which alone could give offence) is printed with all the letters—while Percy is delicately left in initials and finals.

There are some verses in the book, of which, out of regard to the author's memory, we shall say nothing. They are very apparently 'by a person of quality.' Pope, we think, has written something like them under that signature—which rather takes from their originality.——But we now take our final leave of this lively volume,—with our usual protest against the enormous size into which this collection has been distended. Booksellers now-a-days only study how to construct large paper houses for their little families of letter-press,—and never think of the taxation to which they thus subject their readers. These Letters might have been comfortably accommodated in a comely little octavo, and sold at a reasonable price: Instead of which, they are put forth in a good stiff quarto,—and are, to use old Marall's phrase, 'very chargeable.' We hope soon to see them in a more accessible shape.

Art. V. *Histoire des Cortes d'Espagne.* Par M. Sempere, de l'Academie de l'Histoire de Madrid, cidevant Procureur du Roi en la Chancellerie de Grenade. Bourdeaux, 1815.

M. Sempere is one of those Spaniards whose talents and acquirements would confer honour upon any country, and who have been banished from their own by the active jealousy of its rulers. He is now living at Paris; and although he is kept out of the enjoyment of his dignities and fortune, his hours pass happily in literary retirement. In this work, we find considerable originality of thought combined with great historical diligence and precision. M. Sempere places himself in opposition to the opinions enounced by Marina in his 'Theory of the Cortes;' and he has clearly pointed out many errors into which that able writer has fallen, whose judgment has often yielded to his enthusiasm for liberty. We do not intend, however, to enter at present into a critical examination of the 'History of the Cortes;' for the history of the ancient constitution of Castile, has been discussed more than once in this Journal; and we must now proceed to consider the origin and nature of the ancient laws of Spain. M. Sempere has touched incidentally upon this topic, and in such a manner as to make us regret that he has not been more diffuse. Notwithstanding the valuable publications of Llorente, and Manuel, and Delrio, and Marina, the study of the legal antiquities of Spain is as yet in its infancy; and M. Sempere's avocations have qualified him for the composition of an accurate history of the Spanish law, which would be equally acceptable to his countrymen and to strangers.

It is indeed an interesting employment to an Englishman to investigate the ancient jurisprudence of the nations who dwell on the firm land of Europe. To the constitutional lawyer these researches should be enjoined as a duty; and they are indispensable to all who wish to understand, with precision, our own early history. Excepting in its outermost boundaries and march lands, the European continent has received either its population or its polity from the sons of the same great Teutonic family to which we also belong—once owning the same laws in all their settlements, and now immeasureably diversified in all their institutions. At first we behold the kindred springs gushing forth from the same rock. Awhile they ripple beneath the shade; and at length burst out into day with more rapid flow. Some, however, soon become turbid by the admission of foreign streams; and others are absorbed in marshes, or lost in the arid sand. One alone pursues a steady course, widening as it

advances, defying the attempts which are made to taint its waters, and overwhelming all obstacles beneath its waves. Comparisons like these afford room for thankfulness, rather than for pride of heart; yet we cannot refrain from indulging in them, when the legal constitutions of the countries whose inhabitants are of Teutonic origin, are considered in relation to our English laws, which, with all their blemishes, are more conducive to the well-being of the commonwealth, than any other system of legislation which the wit of man has hitherto been able to devise.

From their geographical position, the Belgic and Scandinavian tribes seem to have been the first, while the Visigoths were perhaps the last, amongst the nations who wandered from the shores of the Euxine and the Eastern Asgard. Destiny led the Visigoths far from the regions which formed the chief domain of their brethren. And well might the Norwegian damsels sing in their ballads of chivalry and love—*how Miklagard and the land of Spain lay wide away o'er the lee.*

' Myklagard ok Spanialand
Thad liggur so langt af leidi. '

Another tongue was spoken by the Spaniards, and they were clad in another guise; but they trod in the pine forests of Tebar with the same spirit as their brother Goths beneath the firs of Norway. Odin, perhaps, would have disclaimed them for their degeneracy; yet the laws of Spain retained many vestiges of the wisdom which assembled the twelve deified judges beneath the ash Ygdrasil, and raised the twelve seats of doom in the vale of Ida, though centuries had elapsed since the Runic rhyme had lost its potency, and the gods their votaries. Driven from the rich empire which had been won by the prowess of his forefathers, still the Spaniard was honoured by bearing the Gothic name; and Pelayo and his successors in the after-time, were strengthened by the recollection of the old days of conquest and of glory. Under the powerful influence both of national prosperity and of national misfortune: Taught alike by the conquered Roman and the victorious Arab: Corrupted by the wealth, and luxury, and refinement of Toledo: and struggling for existence amidst the wilds of the Asturias;—Still the Spaniard never wholly forgot or belied the fierce blood of the Goth from whom he was descended.

The Peninsula and the southern provinces of Gaul were subdued by the Visigoths before their laws were reduced into writing. We are informed by St Isidore, that Euric * first gave 'written laws' to the Goths. For, until the reign of Euric, they were governed by 'unwritten usages and customs,' in

* A. D. 466—84.

which all the law of the Teutonic nations was originally contained, even after they had advanced far beyond the savage state. Where this traditionary common law exists, it is always sufficiently extensive. Few cases could have come before the predecessors of Wisogast or Bodogast, which, according to the yet unwritten Salic law, they would have been incompetent to decide. Nor is it a paradox to assert, that traditionary law is frequently as permanent as written law. Letters being in common use amongst us, we hardly know how well the memory can be trusted. The verses of the Druids, as we collect from Cæsar, contained all the laws of the Gauls. In other words, the memory was assisted by an alliterative sentence, or a jingling line. Amongst the Teutonic nations, this application of the art of poesy seems to have been universal: And even now we may collect many an ancient verse which taught the law in times of old, and in which the rhyme assists the reason. Such, for instance, are the Kentish verses—'*The father to the bough, The son to the plough*'—which, duly expounded, signify, that land held in gavel kind descends to the child though the ancestor be attainted.—A rhyme of remoter date, declared the terms upon which the Kentish freeholder was to regain the land which he had forfeited—*Nygonsith seid, And nygonsith geld, And five pund to the were Ere he be a healdere.* Frailty worked the loss of the dower of the Kentish widow. When 'the childe was born and hearde to crye,' her tenancy in her husband's land expired. The heir entered, and sent the wanton to her paramour, on whom she was thenceforward to depend for maintenance, according to the monitory verse—*Se that hire wende, Se hire lende.* Or, as the same hath been waggishly paraphrased by grave Master Lambard—*He that doth turne or wende her, Let him also give unto her or lende her.* The four indications of offence against Vert and Venison, in like manner arrange themselves in rhyme—*Dog draw, stable stand, Backberinde, and bloody hand*;—and this formed the precept of the Forester, and instructed him to seize the trespasser who was taken with the mayneer whilst roaming in the green-wood shade.

Here also we see the origin of the old merry rhyming grants.—There is King Athelstane's famous grant to the Minster of Beverley—'*As free mak I the, As hert may thynk, Or eygh may see;*'—and which appears to us to be one of the ancient technical forms which constitute a most important part of the law of the Northmen.—Another is the grant of 'William King' to Powlen Royden, of '*My hop and my hop lands, With 'all their bounds, Both up and down, From heaven to erth, 'From erth to hell, For thee and thine, Therein to dwell, From*

'*me and mine, To thee and thine, By a bow and a broad arrow,*
'*When I come to hunt upon Yarrow.*' This language is poetical though rugged; but it yields to the charter which commemorates the gift made by the Confessor *to Ranulph Peperkyng and his kindling, Of the hundred of Chelmer and Daneing, With Hart and Hind Doe and Buck, Fox and Cat, Hare and Brock, Wild fowl with all his flock, Partrich fesaunt hen and cock, Green and wild, Stub and stock, To keepen and to yeemen by all hire might, Both by day and eke by night, And houndes for to hold, Good swifte and bolde, Four greyhounds and six braches, For hare and fox and wild cattes.* Earl Sweyn of Essex, Bishop Wulstane 'book y lered,' and Hovelyn the steward, are named in the *teste* of the charter; but the lively enumeration of the franchises of the forest, rather bespeaks the talent of the gleeman than the 'book-lere' of the bishop and the clerk.

While lands could pass by word of mouth, such rhyming grants would strongly fix themselves upon the recollection of the witnesses; and it was a kinder method than the custom of the Franks and the Allemanni, who pinched the ears, and slapped the faces of the luckless wights who were called in to authenticate their deeds; thus impressing the memory through the feelings of the outward man. It is hardly necessary to observe, that neither Athelstane, nor the Confessor, nor the Conqueror, could speak in the language which is ascribed to them. The modernization, however, of the words of these monarchs, does not detract from the substantial antiquity of the rythmical memorials of their bounty. Most of our English proverbs were undoubtedly Saxon proverbs. In like manner the royal grants became popular saws, following the course of the language as the Saxon softened into 'Englysch,' in the mouths of the burgesses of Beverly, and the tenants of the Hopton manor. Their actual antiquity is proved by record to be at all events considerable. The grant of Beverly is set out in the petition presented to the House of Commons on behalf of the Archbishop of York in the 3d of Henry V. Ranulph Peperkyng's charter is at least as old as the reign of Edward the Second, it being avouched in the record of a suit in one of the Courts at Westminster of Hilary Term, 17 Ed. II. It is also enrolled in the Forest Roll of Essex. The spelling is much altered in the latter copy, from which our text is taken. We think some resemblance may be traced between its versification and the style of the Gest of King Horn. These whimsical instruments may be spurious; yet they may at least be received as good evidence of the antiquity of *law verse*. If they were forged, similar precedents must have been then extant, otherwise the rogues who invented them would have defeated their own ends. It is

in the Ancient Custumal of Kent that we find the Kentish rhymes; two are preserved in the corrupted Saxon used after the Conquest; the third is English; but all have been equally derived from the Saxons. We may corroborate these remarks, by observing, that the Saxon laws are frequently couched in alliterative, and assonant or rhyming sentences. Alfred strengthens the law which he set upon all ranks of men, by adding, that the '*Earl* and the *Churl*' are to be equally subjected to its penalties. The *Thane* and the *Theow* always appear in conjunction. In these expressions, the alliteration and the antithesis are equally in the spirit of northern poetry. The clauses of the oath of fidelity prescribed by the law of Athelstane, and which was probably much more antient than the statute in which it is incorporated, are marked by alliteration and rhythm. In the Frisick laws, almost every sentence has as many 'rhyme letters' as an Icelandic verse; and most of the historical recitals in that very singular collection, are evidently fragments of popular song: Eppo of Repkow begins his Saxon Mirror in hobbling verse.

Rhythmical laws may not have been universal; verse may not always have given its aid; but, even without this artificial help, the traditionary Teutonic law could not easily be effaced from the memory of the people. Whether civil and criminal trials were decided in the popular assemblies, or by a peculiar class of hereditary or elected judges, in the presence of such meetings, the law which guided them was remembered by every freeman. Unwritten law receives few innovations. Whilst it lives in the memory of the huntsman and the warrior, it does not admit of change so readily as when entrusted to the parchment of the scribe. When letters become known, the decree which issues to meet a particular case stands upon record, and becomes a precedent for future decisions; and too great a portion of the codes of the most civilized nations, consists of laws which ought to have had only an ephemeral existence. But so long as 'use and custom' formed the law, the mandate of the king which increased its rigour, or tempered its severity in special cases, was forgotten when the traitor had expiated his crime by some new and signal punishment, or when the relations of the slain had been compelled to content themselves with the diminished blood fine. The existence of the exception was forgotten in the general rule; and the people reverted to their ancient customs. The bent branch flew back, when the restraining hand was removed.

It is not known, whether any of the written statutes of Euric are preserved in the Visigothic code; Berganza, we know not upon what authority, glosses the brief sentence of Isidore.

Euric, he says, *collected* the laws of his predecessors, adding thereto his own. In the chronicle of San Millan, Euric is said to be 'the king who gave the Goths a Catholic law'—*Gothis legem Catholicam dedit.* Neither Llorente, the last editor of the Fuero Juzgo, nor Marina, have attempted to explain this obscure expression. Berganza refers it to Euric's conversion from the heresies of Arius. But may it not simply signify, that he gave some universal law to the Gothic nation? Cardinal Baronius was of opinion, that the Visigoths had been previously subject to the laws of Theodorick the Ostrogoth; but the reign of Theodorick in Spain is involved in great obscurity; and there does not appear to be sufficient ground for rejecting the authority of Isidore, who considers Euric as the first legislator of the Visigoths.

The legislation of Euric was confined to his own people. But ALARIC, the son of Euric, confirmed to his Roman, and perhaps to his Gothic subjects, in the Gaulish provinces, the use of the Civil law, by the promulgation (A. D. 506) of an abridgement of the Theodosian code, sometimes called the *Anian breviary*, from the name of the Gothic senator, whose official signature certified the authenticity of the royal decree, which was also subscribed by Goaric, count of the sacred palace. The Theodosian code was the basis of the new system of legislation; but many regulations were extracted from the Constitutions of the Emperors, and the works of such of the Roman lawyers as were received as authority in the Roman tribunals.

It is very important to observe, that the legislative authority of the Visigothic kings, was exercised by them in concurrence with the national councils. The Gothic rulers imitated the state, and perhaps attempted to assume the power of the Roman emperors; but their decrees could not legally command obedience, unless sanctioned by those assemblies, which, in Spain, were always held at Toledo. The clergy and the nobles discussed the propositions made by the monarch; and the people assented to the decrees which were framed by the prelates and palatine officers. In the six first councils of Toledo, the acts are signed only by the ecclesiastical members; and the consent of the people is not always expressed. In the fourth council of Toledo, the question is put by the dignified Prelates; and the body of the clergy and the people answered—'He who presumes to violate our decree, let him be Anathema Maranatha.' The tenth canon of the 16th council was enacted by 'the priests of the Lord, the nobles of the palace, the clergy, and all the people.' Yet much was left to the discretion of the scribes; and it may be concluded, that the composition of these assemblies was nearly

uniform, notwithstanding the variations in the forms of the instruments in which their proceedings are recorded.

It was from such a Gothic council, that the code of Alaric, though collected from the decrees of the emperors, and the opinions of the Roman jurists, derived its validity. At Arles, the Gothic monarch assembled his bishops and his nobles. With their consent, he promulgated the code in which their deliberations, as he declared to his subjects, had explained the obscurities, and amended the errors, of the laws of Rome. This was a proud assertion; but the Anian Breviary retained its authority, at a period when the sources from which it was derived were nearly forgotten; and, until the recovery ofthe Pandects, it was the principal, if not the only code, from w ich a knowledge of the Civil law was gained by the jurists of Gaul and Spain.

Alaric gave an impulse to the Gothic legislation, which continued till the extinction of the monarchy; and guided the Visigothic kings and their councils in the formation of the successive digests or compilations of the Gothic laws: Although his Breviary was not received in Spain, yet the Spanish councils followed the example which Goaric and the magnates of the court of Alaric had afforded them. LEOVIGILD, the Arian King, acquired the title of the legislator of the Goths as well as Euric; and his image, according to the old traditions of Spain, was painted 'in long robes, in robes of peace,' more truly honourable than the corslet or the helm. He revised, says Isidore, such laws of Euric as were objectionable; and he added new laws to meet the cases for which Euric had not provided. The code of Euric, though imperfect, and requiring these enlargements, was yet redundant; and Leovigild abrogated many superfluous laws. Many of the laws of the heretical Father were abrogated or corrected in their turn by his Catholic son, RECAREDO, (from 621 to 631); and laws of GUNDEMAR, and SISEBUTO, equally Catholic and intolerant, are found in the general collection.

A more important era in the history of the Gothic law is formed by the reign of SISENANDO, who, in the 4th council of Toledo, in 634, exhorted the assembly to bear in mind the decrees of his predecessors—to protect the rights of the church—and to correct the abuses which had arisen from the neglect of ecclesiastical discipline. In the acts of the council, as they now exist, the compilation of any general digest of the Gothic laws is unnoticed; but the ancient and uniform tradition of Spain considered the *Fuero Juzgo* as 'the book which was 'made by sixty-six bishops, in the presence of King Sisenando, 'in the 4th council of Toledo;' and Sisenando, like Leovigildo, was painted 'in long robes, in robes of peace.'

CHINDASVINTO enacted many good laws; but it may be doubted whether he undertook a general revision of the code. The 8th council of Toledo was convened in 653 by RECESVINTO, who directed it to revise and new arrange the existing code. The digest was executed and promulgated by the decree of the 'glorious King Recesvinto,' which appears at the head of the second book of the Visigothic code.§ In this decree he recites the correction of the laws which had taken place under his sanction, and that they 'followed in the book' in the order in which they had been disposed.

King BAMBA† issued several decrees intended to check the declension of military ardour amongst his subjects; but this unfortunate monarch was deprived of his throne by a strange device, suggested by the craft and ambition of ERVIGIUS. The usurper attempted to win the affections of the Goths, by recommending the members of the 12th council of Toledo‡ to moderate the pains and forfeitures with which the neglect of military service was visited by the existing laws; and, with a fair show of equity and moderation, he charged the council with the task of correcting the defects of the Gothic laws. The revision took place; but the alterations thus made were considered after the death of Ervigius as ill-advised; and the decrees which he and the council had repealed, were restored by the orders of FLAVIUS EGICA, under whose reign the code underwent its last revision. He directed them to retain those laws only which had been in force 'from the reign of King Chindasvinto to the reign of King Bamba'—thus excluding all the laws of Ervigius, at the same time that he evaded passing a direct censure on his memory. We hasten to the conclusion of this tedious outline of the history of the Gothic code. The laws of WITIZA,* who allowed the priests as many concubines as they could afford to keep, are said to have been effaced by the piety of later kings; and a few laws, attributed to RODRIGO, the last of the Goths,‖ were, if Morales be accurate, inserted under the proper heads in the code of Egica.

From these repeated revisions resulted the digest of Visigothic law, now existing in two texts, viz. the '*Leges Wisigothorum*,' published by Lindenbrogius, and repeated by other editors; and the Spanish translation, known by the name of the

§ Fuero Juzgo, Lib. 2. Tit. 1. Leg. 8. In the Latin text, Lib. 2. Tit. 1. c. 9. this law is given, not to Recesvinto, but to Chindasvinto. Internal evidence supports the reading of the Fuero Juzgo, which we have followed.

† A. D. 672–80.
‡ A. D. 681.
* A. D. 701–11.
‖ A. D. 711–16.

'*Fuero Juzgo.*' It is a methodical code, divided into twelve books, which again are subdivided into titles, each containing several laws. In the Latin text, the rubric 'antiqua' is prefixed to a great proportion of these laws. A second class consists of those noted as 'newly amended;' and sometimes the initials of the king, under whose name the emendation took place, are added. To others is prefixed the abbreviated name of the king in whose reign they were enacted.

Great antiquity must be assigned to the Spanish version, though its era is uncertain. Alfonso de Villadiego assumed, that it was made in the 4th Council of Toledo, or at least under the Gothic kings. Don Joseph Pellicer quotes it as a proof, that the Castilian was the ancient primitive language of Spain,—being one of the seventy two languages which arose out of the confusion at Babel. A law of Recesvinto, ‡ in which he directs the employment of an authenticated *transcript* of the law, has been misinterpreted, to sanction these reveries. More critical writers, Asso, and Manuel, and Llorente, consider it as a translation made by order of Saint Ferdinand in 1235, for the use of the city of Cordova. The Gallician dialect was the most ancient '*romance*' of Spain; and though Alfonso de Villadiego was a careless editor and his MS. perhaps modernized, yet the language of the Fuero Juzgo still exhibits strong traces of the dialect of the Gallegos. The existence of earlier translations is affirmed by writers of credit. The Conde de Campomanes quotes a MS. of the 12th century in his possession, containing a Spanish translation of the Visigothic law, It was conjectured by Sotelo, that a translation was made for the use of the Judges of Castile, Layn Calvo and Nuño Rasura; and that, from the use they made of the Gothic law, it acquired the name of Liber Judicum, afterwards corrupted into Libro Juzgo. Whensoever the version may have been made, the translator certainly did not take the common Latin text of the Leges Wisigothorum as his original. The Fuero Juzgo contains much which is not to be found in the latter: and there are occasional variations in the order of the laws, as well as in their sense. An important difference between the two codes has been overlooked by the writers who have treated on them. In the Fuero Juzgo, the twelve books of civil and criminal laws are preceded by the remarkable 'exordium,' containing a selection of laws or canons, enacted in different councils of Toledo, * which regulate the mode of elect-

‡ L. W. Lib. 2. tit. 1. c. 10. Defendemos que non presente al juiz . . . otro libro de leyes si non este nuestro, ò otro *traslado* segun le este. F. J. Lib. 2. tit. 1. L. 9.

* From the fourth council to the seventeenth.

ing the king by the bishops and magnates of the palace, and the people, define his duties, and denounce the penalties of high treason,—being in fact the constitutional laws of the Gothic monarchy. This exordium is wanting in the 'Leges Wisigothorum.' And this circumstance, therefore, inclines us to conjecture, that the MS. from which the latter were printed was not the genuine *Spanish* code, but that it was intended for the use of the Visigoths who fled to France. These fugitives, as we have already noticed, retained their Gothic laws; but, as they could not need the collection relating to the rights of the Gothic kings, it is probable that it would be omitted by their transcribers.

Ambrosio de Morales saw an 'exceedingly ancient' MS. in the Cathedral Library at Toledo, in which, after each Latin law, the *same* law followed in Castilian. If this Castilian version was the same as now appears in the printed Fuero Juzgo, the Latin code was that which we suppose to have been the authentic text in use in Spain. When Sotelo visited the Cathedral Library, the MS. had disappeared; he, therefore, accuses Morales of having given a mistaken account of some other MS.: But Ambrosio, the Tom Hearne of Spain, was not likely to blunder in these matters.* New and correct editions both of the Latin code and of the Fuero Juzgo would have been given by the Spanish Academicians, if their labours had not been interrupted by the invasion of the French.

The share which each of the Gothic kings, from Euric to Rodrigo, had in the code, as it now exists, cannot be satisfactorily ascertained. The learned have enjoyed their usual amusement; commentator shakes his head at commentator, and more doubts are raised by them than can be easily satisfied. A conspicuous place is held by the decrees of Recesvinto; and in his reign the code appears to have taken its present form. One solitary manuscript ascribes to Ervigius, the decree which we have quoted as of Recesvinto. And on this authority only, Marina has thought fit to differ from every other writer who has treated on this subject, and to suppose that the digest of Ervigius is preserved in the Fuero Juzgo, though all the chronicles of Spain proclaim him as the corrupter of the laws.

The ancient and unentitled laws were attributed by Villadiego, to Euric or Leovigild, to Sisenando or Saint Isidore.

* Whilst this Article is passing through the press, we learn, that the Spanish Academicians have completed their edition; a copy whereof, and probably the only one which has travelled out of Spain, has been transmitted by them to M. Raynouard, the learned and estimable Secretary of the French Institute. Unfortunately we have not had an opportunity of making use of this publication

Isidore presided at the 4th Council of Toledo; and although the supposition is unconfirmed by historical evidence, it is not wholly improbable but that the national code of the Goths may owe its origin to the diligence of the Metropolitan of Seville. Those who ascribe the compilation to Isidore, are supported in the conjecture, by observing that there are portions of the Gothic law which are given in his words. And to the chapter on the degrees of affinity (Lib. iv. Tit. 1.), the name of Isidore is prefixed in the decretals of Gratian, where it is also inserted. A deep knowledge, both of the Gothic and the Roman laws, was required by the compiler of the code; and none could have been better qualified for the task than Isidore, the first historian of the Visigoths. Accident often fans the latent spark of genius into flame; and the fame of Isidore is referred to an accident, which may have been invented to account for it. When a schoolboy, he was very idle, played truant, and ran away into the fields. After wandering about, he became weary and thirsty, and stopped at a well. The stone round the brink of the well was hollowed into grooves and channels. They excited the curiosity of the boy; and the good woman who was drawing water, explained the cause of this appearance;—the stone was channelled by the constant rubbing of the bucket-rope. The future bishop then bethought himself, that if the hard rock could thus be worn through by the soft and yielding substance, surely his own dulness might give way to application and industry; and thus pondering, he returned to his home—and instantly passed into a new life and being. The studies over which he had slumbered in weariness, now afforded nought but delight; and he prosecuted them with such energy, that he became the most learned man of his age and country. In the rich monastery of St Isidore, at Seville, a fragment of the well stone may yet be seen by the curious pilgrim. We shall not require our readers to swear by the relic; but even those who hesitate to receive the legend as perfect truth, will admit the ingenuity of the fable. Isidore's compositions bear witness to his extensive learning. Comments on the scripture, and refutations of heretical doctrines, were perhaps to be expected from a primate of the Spanish church. But his chief work is the result of years of the most varied study. The critic may smile at some of his fanciful etymologies; yet no ordinary capacity could have planned and executed such a comprehensive Encyclopædia, embracing all that was known in theology, and history, and science, and general literature.

There is no nation in Europe whose early history is so unsatisfactory as that of the Visigoths.—Even the Hungarians have more copious chroniclers. Without doubt, many historical mo-

numents must have perished in the general wreck. The Visi-gothic Hagiology, a valuable though neglected depository of materials for the history of the middle ages, is comparatively scanty. No Gregory or Bede arose during the tumultuous conflicts in which the Goths were engaged, in the earlier periods of the reviving monarchy; and, when they had leisure for the cultivation of literature, tradition had faded away. A dark and barbarous colouring is given to the annals of the Visigoths by the ecclesiastics, who are our sole historical guides. In their concise and jejune chronicles, we meet with nothing but battles, miracles, and murders. More information respecting the state of society amongst the Visigoths, may be gained from their laws, which cast a transient gleam of light on the manners and morals of the people to whom this body of jurisprudence was adapted.

From the great care which the Gothic kings bestowed upon the revision of their code, it is evident that courts of justice had attained that importance which belongs to them only amongst a rich and settled, and perhaps an unwarlike people. Until the reign of Charlemaine, the Franks needed no other law than that which Clovis had brought from the Salic land; whilst, amongst the Visigoths, each generation required a revision of the former law;—so rapid were the changes which were taking place in society. With the Romanized inhabitants of Spain, the Goths were fast amalgamating; nor do we discover, in their laws, any indication of the haughty contempt in which the tributary Roman was held by the Frank or the Lombard. His life or limb was not valued by the Gothic legislator with degrading inferiority. Both Goth and Roman were equally called to the defence of their country; and the prejudices which once prevented the conquerors and the conquered from uniting in the holiest and softest bond, no longer existed. Recesvinto 'anxious for the welfare of his people,' gave a legal sanction to the intermarriages of the Goths and the Romans; and, expressing his sentiments in language equally honourable and conciliatory to both nations, he declared that he was repealing an ancient law, which kept those asunder who were equal in *dignity* and in lineage.

Thus far we hail the progress of social order and humanity; but the pages which attest the increasing civilization of the Visigoths, disclose, at the same time, the cruelty and profligacy which disgraced them. The precious metal was debased; and even adversity did not consume its impure alloy. We would speak with respect of the failings of the Spaniards; for, amongst them, the good principle has strongly wrestled with the evil one:—But their Royal banner is drenched in tears and gore; and the sins which have so deeply stained the Spanish nation, are common

to them and their Visigothic ancestors. Amidst the revolutions of empires, national character seems endued with unconquerable vitality, and retains to the last its original peculiarities. The lessons acquired by the infant commonwealth are seldom unlearned in prosperity, or in decay. Nations acquire habits as well as men; and it is thus that both are formed to vice or virtue.

When the Visigothic monarchy arose again, its moral deformities manifested themselves afresh.—Bitter fruit had loaded the parent tree; and bitter fruit was produced by the scion when it came to bearing age. The same bigotry which afterwards kindled the hellish fires of the Inquisition, and the cruelty which devoured the inhabitants of America, dictated the inhuman and persecuting edicts of Sisenando, and of Recesvinto, and of Sisebuto. * A tone of unvaried harshness pervades the Gothic code, betraying the temper of the legislator, as well as the sins of his people. No proportion is observable between crime and punishment. Slavery, and the scourge, are denounced for the most unequal offences; and slavery, amongst the Visigoths, existed in all its unmitigated horrors. In the seventh council of Toledo, the king is exhorted by the fathers to reign in mercy. Recesvinto prohibits his successors from indulging in the luxury of forgiveness. † If the king, in his *pity*, chose to spare the life of the state criminal, Recesvinto declares, that the eyes of the pardoned traitor were to be dug out, and the hair and skin to be torn from his forehead, and he was to receive an hundred stripes, and be a slave as long as he lived, so that he might linger out his existence in wretchedness and pain. ‡ A free woman, who became a harlot, was, after the third conviction, to receive three hundred stripes, being one hundred more than were inflicted for any other offence; and she was to be given, as a slave, to some poor caitiff (algun mezquino), in order that her loss of liberty might be attended with greater misery. This provision exhibits an odious refinement of cruelty. However humiliating to human nature the fact may be, it is too certain, that the poor man always crushes his dependants: he thinks he can only assert his superiority by brutality: he fears that kindness will make the menial equal to the master. Heavier still were the punishments which awaited the unchaste, if already in a state of servitude; she was also to receive three hundred lashes, and the skin and hair were to be torn from her forehead. Even the ministers of justice, it was

* The whole of the last book of the Latin text is composed of laws enacted by these princes against Jews and heretics.

† F. J. lib. 2. tit. 4. l. 6.—L. W. lib. 2, tit. 1, l. 7.

‡ F. J. lib. 3. tit. 4. l. 17.

feared, would recoil from the infliction of such punishments and Recesvinto therefore enacts, that the judge who does not fulfil the decree, is himself to receive an hundred lashes, and to forfeit thirty 'sueldos.' Whenever the lawgiver rages for the preservation of good morals, forgetting that charity is his first duty, his heart is rotten to the core. The greatest corruption of manners is also indicated by the savage laws against adultery. The adulterer was put in the power of the husband; —and the woman seduced by a married man, was delivered to the offended *wife*, in order that she might glut her jealousy.— Such were the Goths. The lust of Rodrigo brought down the punishment which awaited the transgressions of the nation; and the Visigothic lion fell beneath the avenging sabre of the Saracen invader.

By the Civilians, the Gothic code has been praised for its affinity to the Civil law. Cujacius has exaggerated this affinity. A writer of deserved reputation has passed into the contrary extreme. * 'Towards the close of the 6th century,' he tells us, 'when the Saxons were masters of the most fertile provinces of Britain, the Franks of Gaul, the Huns of Pannonia, the Goths of Spain, and the Goths and Lombards of Italy, and the adjacent provinces,'—'very few vestiges of the Roman policy, jurisprudence, arts and literature, remained; new forms of government, new laws, new manners, new dresses, new languages, and new names of men and countries, were everywhere introduced.' Robertson has erred in this general view. Expressions which are not inaccurate when employed in describing the state of Britain, or Pannonia, do not convey a just idea of Gaul or Italy, and still less of Spain.

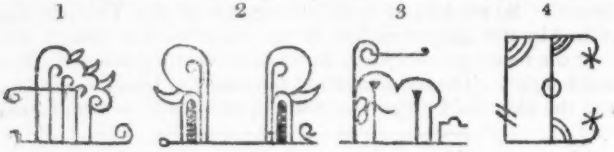
The invaders were thinly scattered amongst the original population. Difference of language did not long continue to estrange the Visigoths from the ancient inhabitants of the country. If it be desirable that nations should retain their national character, unchanged by foreign intercourse, the builders of the Tower of Babel deserve the blessings of mankind for producing the confusion of tongues. Neither the deepest river, nor the highest mountain, can separate nation from nation so effectually as a strange language. Nay, even a slight diversity in idiom, an accent or a tone, will constitute an almost impassable barrier. This barrier disappeared. So completely was the language of the Visigoths banished by the *Romance*, that it has scarcely left a vestige, except the names preserved in history, and certain titles of office and honour. The termination of the names of Chintila, Fruela, and the like, is Mæsogothic, and approaches to a termination

* Robertson—History of Charles the Vth.—State of Europe, Sec. I.

which frequently occurs in the dialect of the German Switzers, the neighbours of the German Suevi. Other of their names are nearer to the Icelandic, or Norsk. Let the ancient language of the Goths have been what it may, it was disused by them at a very early period of their history. It has been supposed, but most erroneously, that the Spaniards retained the Mæsogothic characters of Ulphila till the celebrated council of Leon, when, as we are told by Alonso, 'the scribes were ordered to disuse the Toledan mode of writing, invented by *Don Golfidas*, the famous bishop of the Goths,' and to adopt the French alphabet. Not a tittle, however, of the penmanship of Don Golfidas ever existed in Spain; and there is reason to suppose that it never was used elsewhere, but in the copies of his translation of the Gospel.* The very difficult handwriting in which the an-

* In their inscriptions, and in the rubrics of the books, the Spanish Goths, like the Romans of the Lower empire, were fond of using combined capitals—of *monogrammatizing*. This mode of writing is now common in Spain, on the sign-boards and on the shop-fronts, where it has retained its place in defiance of the canons of the Council. The Goths, however, retained a truly *Gothic* custom in their writings. The Spanish Goth sometimes subscribed his name; or he drew a *monogram* like the Roman Emperors, or the sign of the *cross* like the Saxon; but not unfrequently he affixed strange and fanciful marks to the deed or charter, bearing a close resemblance to the Runic or magical knots of which so many have been engraved by Peringskiold, and other Northern antiquarians. Description cannot convey an idea of such arbitrary signs. We therefore copy the following (see below.) The first is the mark of Gundisalvo Tellez, affixed to a charter, dated in the year of the era 840. The second was used by the Abbot Ovecus, and Peter his nephew, in the year of the era 886, King Ramiro reigning in Oviedo, and Fernan Gonzales in Castile. The third was affixed by Didaco Ordoniz, Roderico Ordoniz, Tarasia Ordoniz, and Argilo Ordoniz, to a charter of donation executed in the era 1018. These are all Visigothic. The fourth, a Runic cipher, which may be compared with them, is given by the learned Swede in his Annotations upon the Life of Theodoric; and it is taken, with others, from an ancient Icelandic manuscript. Father Andres Marina supposes that these marks were *printed* or stamped. The clause with which the deeds

1 2 3 4



cient Spanish MSS. are written, and which Aldrete, who gives a specimen of it, calls Gothic, is the same with what is sometimes called Lombardic, appellations conveying loose and incorrect ideas. Maffei was in possession of a deed, written in this character, in the year 444, before the Gothic invasion. It was the notarial hand of the ancient Romans, without any thing of Gothic in it, but the name. Neither in reading, or in writing, did the Gothic Spaniards owe ought to Ulfila; their language was broken Latin. All grammar was lost; yet it was essentially Latin, notwithstanding its barbarisms and solecisms; and, perhaps, it scarcely differed from the language which the Spanish people spoke in the days of Augustus. The wit, who said the Spanish was such Latin as he should have expected to have heard from a Roman slave, sulky from the bastinado, came a great deal nearer to the truth than he imagined. If the famous letter of St Jago had been written in such *Romance* as is employed in the charter granted to the town of Oviedo by the Emperor Alfonso, we might have been half inclined to believe that it was penned by the Apostle. For one word that is clearly of Teutonic origin, in the Romance of Spain, there are ten in the *Volgare* of Italy, and an hundred in the *langue Romane* of Gaul.

Thus Romanized in language and in manners, the Visigoths soon became familiar with the civil laws. Euric held his court at Arles, in Narbonensic Gaul, a province where the jurisprudence of Rome was fully established; and the subtle ingenuity of the Forum was blended with the simple equity of the Gothic *Althing*, by the counsellors of the first legislator of the Visigoths. It is true, that Recesvinto had prohibited the judicial employment of the Roman law. But in his address to the council of Toledo, he adopted the words of Justinian's instructions to Tribonian and his associates; and the Fuero Juzgo has bor-

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end, 'manu propria signum *impressi*,' is perhaps of ambiguous import; but he might have added several strong facts in support of his opinion. Twenty-seven years after the date of the first charter of Gundisalvo Tellez, his widow Flamula granted the town of Pedrenales to the abbot and monks of Cardeña, for the good of Gundisalvo's soul; and the 'sign' which she made 'with her own hand,' is the same as that which was made by Gundisalvo. This certainly shows that she inherited the stamp which he had used in his lifetime. The four children of Ordoño all use one 'sign,' which was probably that of their father or family. One 'sign' is used by Ovecus the uncle, and Peter the nephew. It was therefore a stamp which each one affixed. It has been thought, that the silver letters of the Gospels of Ulfila were stamped or printed upon the purple parchment by moveable types or tools. Did Fust and Guttenberg only revive the art of their Gothic ancestors?

rowed much in matter, and more in manner, from those 'foreign laws,' which he recommended to the private study of the advocate. The Gothic kings were jealous of the political authority of the emperors, not distrustful of the wisdom of their laws. They were willing to profit by the learning of the Roman law, whilst they attentively guarded against such an acceptance of its doctrines, as might have been construed into a tacit acknowledgement of the Imperial authority: And although the constitutions and rescripts of the emperors, and the institutions and sentences of Caius and Papinian, and Paulus and Ulpian, were corrected or deformed by the boldness and ignorance of the Barbarian legislators whom Alaric had assembled; yet the law of Gothic Gaul was Roman, and it could scarcely fail to affect the maxims and practice of the tribunals of the same monarchy beyond the mountains.

Other causes assisted to extend the sphere of Roman jurisprudence. It gained ground by each revision of the Visigothic code in the Visigothic councils. It was the deep policy of the Roman Bishops, long before they had confirmed their usurped authority over the other churches of the West, to teach the priesthood to consider Italy as their country, the eternal city as their home. Every member of the hierarchy lived under the civil law; and the persons and property of the clergy were exempted from the Barbaric laws of the State, and judged exclusively by the code which the spiritual empire had adopted. Amongst the prelates who sat in the Visigothic councils, many were Spaniards of Roman kindred, others were foreigners to the Goths in birth-place as well as in blood; all were aliens by education. The business of legislation devolved upon those who predominated in number, whose functions enforced respect, and whose learning brought conviction. The wealth of the Goths now consisted no longer of flocks and herds. New regulations were required to protect them in the enjoyment of their property, and to regulate its acquisition and transmission. Law had become a science;—the action was to be prosecuted according to form and rule;—cases arose, to which the old 'unwritten customs' could no longer apply; and when the council, in obedience to the orders of the monarch, deliberated on the law, they would 'supply the deficiencies' from the wisdom of Justinian or Theodosius; and in 'correcting its superfluities,' many antique usages, taught by the 'All-wise One,' and to which the Goths adhered with religious veneration, as long as they met in tumultuous freedom on the hill of judgment, and under the lowering sky, appeared absurd or iniquitous to the pious Fathers of the council assembled in the splendid choir of Toledo.

The code of a rich and powerful nation enabled them to fill up

the meagre outline, and to connect the scattered portions of the old unwritten law into a regular system. Method, order and science, were given to the Gothic customs by those who had studied in the pages of the Digest. When the King issued a decree, his scribes and chancellors couched it in the language of an Imperial rescript. The Gothic warrior was wrapped in the Roman toga. The reader, who compares the Visigothic code with the other barbarian laws, will instantly perceive the efforts made by the Gothic lawyers to assimilate themselves in language, and consequently in feeling, to the Roman jurists. Neither the Burgundian nor the Frank, nor the Lombard, would dispense with those *words of art*, of Teutonic origin, expressing ideas for which no strict equivalent can be found in classical Latin. They write in *law-Latin*, concise, technical and barbarous. The latinity of the Gothic laws is florid—sometimes eloquent. It may be deficient in purity; yet all barbaric roots are studiously avoided. Civil rights are defined in the language of the Roman jurists; and the Teutonic fines and penalties of the criminal are designated by expressions which divest them in appearance of their barbaric character. As a specimen, we give the following,—an 'ancient' law, perhaps, of the age of Sisenando.

'Qui filium aut filiam alicujus ingenui vel ingenuæ plagiaverit, aut sollicitaverit, et in populos nostros, vel in alias regiones transferri fecerit, hujus sceleris auctor, patri aut matri, fratribusque si fuerint, sive proximis parentibus in potestate tradatur, ut illi occidendi aut vendendi eum habeant postestatem.—Aut si voluerint, *compositionem homicidii* ab ipso plagiatore consequantur, id est solidos quingentos; quia parentibus venditi aut plagiati non levius esse potest, quam si homicidium fuisset admissum.—Quod si eum ex peregrinis ad propriam regionem potuerit revocare plagiator, CCL solidos, hoc est medietatem homicidii exsolvat: Aut si non habuerit unde componat ipse subjaceat servituti.'—*Leg. Wisigoth. l.* 7, *tit.* 3, *c.* 3.

Its verbosity forms a strong contrast to the brevity of the analogous statute of the Lombard Luitprand.

'Si quis liberum hominem foris provinciam vendiderit, et probatum fuerit, componat *widrigilt* ejus, tanquam si eum occidisset.'—*Leg. Longob. lib.* 2, *tit.* 25, *c.* 2.

Here it is seen that the Gothic law expresses the Teutonic *widrigilt*, or the blood-fine, by a circumlocution. The Lombard begins his enactment with stiff and formal 'Si quis;' and compresses it in two lines.—On the contrary, the Gothic legislator seeks to give his law an elegant turn; and he is minute and special, and inveighs against the crime. But the object of both laws is exactly the same; and of both, the original was perhaps the same Teutonic *law verse*.

Although the jurisprudence of the Goths was modified and af-

fected by the civil law, yet it asserted its independence, and in the main it retained its pristine structure. Partially adopted, and by the will of the legislature, the civil law continued subservient to the Barbaric customs with which it was incorporated; and we have seen, that, except in the form under which it had been so sanctioned, the judge could not allow it to be quoted. Many portions of the civil law have been received into the English common law nearly by the same means; and, without appealing to the Pandects, the English courts receive their regulations for successions *ab intestato*, through the medium of the statute of distributions. The criminal law of the Visigoths remained truer to its Teutonic origin. Blows and wounds were compensated by a fixed and apparently inadequate fine; and the murderer, except in one or two aggravated cases, could equally make his peace with money.

We have spoken hitherto only of what may be considered as the statute laws of the Visigoths; but it must not be supposed that the whole body of their law appears in the twelve books of the Visigothic code. They had their common or traditionary law, still existing in 'unwritten usages and customs,' as well as their written law; and we are supported by analogy in asserting, that this common law often spoke, when the statute law was silent. It outlived the monarchy; and we now collect it from the '*Fueros*' or ancient customs of Castile and Leon. The customs in question are preserved in the charters of the towns which gave by-laws to the inhabitants, confirming the unwritten common law of the country, sometimes with greater or lesser modifications in the detail, but agreeing in general principles. * We equally discover them in the acts of Cortes, which, to borrow the expression of Sir Edward Coke, are often 'affirmances of the common law.' The traditionary Fueros of Castile also formed the basis of the 'Fuero Viejo de Castiella,' which received its last revision under Peter the Third.† And even Alonso the Wise, though he planned the subversion of the ancient jurisprudence of his kingdom, admitted into the Partidas such of those 'fueros de España' as relate to the tenures of land, and to military service.

Consisting of ancient usages, neither refined by the learning of the councils, nor restrained by the power of the kings, the Fueros of Castile and Leon bear a nearer affinity to the jurisprudence of the Teutonic nations than the written code. Nor must it be forgotten that the Suevi who peopled Gallicia, and

* Mr Hallam's classical work may be consulted, for a sketch of the history of the usurpation of the Spanish towns.—'*Europe during the Middle Ages*,' Vol. 2. p. 397. 6

† A. D. 1340.

great part of the country which afterwards constituted Old Castile, continued independent of the Visigoths, till the usurper Andica was subdued by Leovigild; and it may be doubted whether such an incorporation of the two nations then took place as to deprive the Suevi of their ancient customs; and these probably became blended with the traditionary Gothic common law. No law or decree of council, from which the *jus retractus* could arise, is extant; but this mischievous restriction, so consonant to the Teutonic respect for real property, prevailed universally in Castile; and the right of the next heir was barred in the market-place of Baeza, by nearly the same formalities as were employed in the shire court of Drontheim. In the Code, the water ordeal is noticed only once, in a law 'newly amended' by Flavius Egica.† But ordeal by compurgation, the most ancient form of trial by jury, and the battle ordeal, do not appear at all. Neither do we find any notice of the custom of *returning* military leaders by the *verdict of a jury*. All these customs, however, were Fueros of Spain in the middle ages. Nor could they possibly have then existed, had they not been preserved by immemorial usage and tradition.

Of these relics of ancient polity, none are more remarkable than those which relate to the nomination of the officers of the Spanish armies.

A king of the ancient Germans could only be raised to supreme authority from a royal line; but the commander of the host was chosen solely for his valour.* The free and warlike elections of the Germans in the days of Tacitus, continued to be the privilege of the Spanish soldiery even in the reign of Alonso. So discordant to the constitution and prejudices of feudal Europe, this custom is a singular vestige of the most remote antiquity, and seems to have been retained by the Spaniards alone. Only faint and vanishing traces of elective chieftainship can be discerned in other parts of Europe. When military tenures of land, even in their simplest state, were adopted by the Teutonic nations, the franchise necessarily fell into disuse. As long as they warred only for plunder, the leader was but the first amongst his peers during the foray; exciting their valour by his example, not urging them on by his authority. The lot divided the harvest of the sword. The meed of the soldier did not make him dependent on his general. Each had helped to conquer the booty of the camp, or the spoil of the city; and whilst the field was

† L. W. l. 6, t. 1, l. 3.

* Reges ex nobilitate, duces ex virtute sumunt. Tac. de Mor. Germ. c. 7.

still reeking, and the flames yet playing amidst the ruins, each freebooter huddled up his gold, or drove away the kine, or bound the captive beauty, still shrinking from his grasp. But he took his winnings as the well earned wages of the day of slaughter; not as the price of his dependence on the captain of the horde, whom his own voice had elevated to a dignity which was bestowed by all for the common good of all. At length they rooted themselves in the soil, and the land itself rewarded the soldier's prowess; the subject of a monarchy lost the liberties of the marauder, and a permanent reward brought along with it a long subjection. The lord of the villain became himself a vassal. A yearly crop arose from the field as the salary of the oft recurring campaign. Valour, the soldier's virtue, no longer enabled him to aspire to military authority. Some were born to command, and others to obedience. The king enforced the service of the Baron. The Valvassor was bound to follow the banner which waved on the dungeon tower of the castle; and every one in his degree accompanied his superior to the field; no longer the leader whom he followed from affection and choice, but the liege lord beneath whom he fought in servitude and fealty.

History does not record the early mode of electing the Teutonic captains. But it is clear that these elections took place in the popular meetings in which the Germanic nations exercised their autonomy. † The laws of Edward the Confessor show, that the Heretoch was chosen by the people of the shire, in full folkmote assembled. * The military Dukes or Heretochs of the Bavarians were originally chosen by the people of each district; but, when the 'Lex Baiuvariorum' was compiled, the Emperor had acquired the right of naming the Heretoch, whose authority was declared to be the same with that of the elected Heretochs; and it is probable that the people had lost their right. From this source, descending low indeed in the scale of authority, we derive the choice of our *constables* in the hundred court or the wapentake. That the constable, by whatever name he was first truly called, was a military officer in his origin, is indubitable. He may have been conservator of the peace in the time of Alfred; yet surely it was by force of arms, and by laying the staff of his brown bill about the head of the unruly Saxon. The statute of Winton, which gave the chief constable the view of armour, proves that he was cognsiant of similar mat-

† Lex Baiuvariorum, tit. 2. The Duke of the Bavarian nation was elected from the family of the Agilopingi; but he must be distinguished from the Dukes or Heretochs of the provinces or shires.

* Leges Edovardi, p. 206.

ters before its enactment. New duties imposed on old officers are always analogous to such as they have been accustomed to perform.

It is not known in what manner the Scandinavian nations chose their military leaders, but there is a remarkable uniformity in all their customs; and we may be allowed to conjecture, that the War-king was invested with his office by proceedings similar to those which afterwards placed the Folk-king on the throne. When the royal authority became permanent, the chief of the State was the head of the army; and their civil and military policy coalesced and corresponded. Now it appears, that if the throne of Norway was forfeited or vacant, a new King was *returned* by the verdicts of the juries of the shires.‡ Twelve of the wisest men were chosen from each province, who swore that they would name him who was most deserving of the dignity. Such was declared to be the law of Norway, in the laws collected by Haco, the foster son of Athelstan, who gathered together the ancient customs of his people from the mouths of the hereditary deemsters, and afterwards revised by Olave, the hallowed king. And, in deference to this, the ancient privilege of the Northmen, Prester-Swerre the usurper obtained a confirmation of his title from the twelve men of each shire, who, according to the Abbot of Thingöre, 'adjudged the name of king to him.' In every branch of the polity and jurisprudence of the Gothic nations, we observe the veneration in which the decisions or determinations of TWELVE men were held. We have lost the intermediate links of the chain; but when the constable is returned in the court leet of an English manor, by the oaths of the leet jury, it is certain that this humble though ancient constitutional officer derives his annual reign from the voices of such a band as, in days of old, placed the monarch of Norway on the throne. As to the ancient elections in the hundred courts and wapentakes, great uncertainty prevails respecting them; yet there is reason to suppose, that in many instances the chief constable was not chosen by the body of the suitors, but returned by a jury.

So much for the North. But we must now flit again to the sultry realm of Spain, where we shall find our old Gothic juries employed in electing the chief officers of the army and navy of the Castilians, the *Adalid*, the *Almocaden*, the *Alfaqueque*, and

‡ Gule Tings Lov. B. 1. c. 1. 'Om Kongens Udvalgelse.' In the last revision of this code by King Magnus Lagabætur, the chapter in question is omitted.

the *Comitre*;* whose qualifications were ascertained by a jury of twelve wise men, and whose promotion was consequent upon the verdict. The Castilians probably did not suspect that, in this ceremonial, they were imitating the solemn sessions of the Asi.

Who was to be the Adalid? The question must be answered in the words of the wise King Alonso. He has given us a portrait of the ancient Castilian army, in all the brilliant tints of ancient chivalry.† It was said by the wise ancients that 'the *Adalid* should 'be endowed with four gifts—the first is wisdom, the second is 'heart, the third is good common sense, and the fourth is loy-'alty.'‡ 'And when a king or any other great lord wishes to 'make an Adalid, he must call unto himself *twelve of the wisest* 'Adalides that can be found, and these must *swear* that they will 'truly say, if he whom they wish to choose to be an Adalid, hath 'the four gifts of which we have spoken: And if they answer 'yea, then they are to make him an Adalid.' Here we have clearly an inquest by twelve men giving their verdict upon oath. If it happened that twelve Adalides could not be found, then a kind of *tales de circumstantibus* was added to this special jury of Adalides. The king or lord was to make up the full number of twelve, 'with other men well areed in war and deeds of arms;' and their verdict was as good as if they had been all Adalides. And he who dared to act as an Adalid without having been lawfully elected, was to suffer death. 'It was advised in ancient times,' says Alonso, 'that they were to have the qualities beforementioned, because it was necessary that they should possess them, in order to be able to guide the troops and armies in time of war, and therefore they were called *Adalides*, which is equivalent to *guides*, (que quiere tanto decir como guiadores.'§)

If Alonso be right in his interpretation, an etymology may be found, without much violence, in the Norsk, and the name may be derived from *Adall*, noble, and *leida*, to lead, a denomination well adapted to the rank with which they were invested. The Adalid was the guide, *i. e.* the *dux*, the leader, the gene-

* Two, or perhaps three, of these officers bear Arabic names; but we must not therefore suppose that the Spaniards took the offices themselves from the Moors. The Arabic language was so much in fashion, that the old Gothic officers obtained Moorish appellations. The Judex and the Sayon became the Alcalde and the Alguazil.

† Partida 2. tit. xxii. l. 1. ‡ P. 2. tit. xxii. l. 2.

§ Nine MSS. of the Partidas read '*guiadores.*' The text adopted by the Academy, in their late edition, has '*guardadores,*' which does not agree with the general context.

ral † of the Almogavar troopers; his duties are detailed at great length in the Partidas. Alonso had seen and could well estimate the services rendered to his father at the beleaguering of Seville by the doughty Adalides, Domingo Muñoz, and Pedro Blasquez, and Diego Martinez, and Lope Garcia de Cordova. The important command of the Almogavares, a numerous, and certainly the most efficient portion of the Castilian cavalry, devolved upon the Adalid; and all his four gifts were constantly called into action.

The Adalid Mayor was commander-in-chief or field-marshal of all the Almogavares: and all the Adalides were, of course, subordinate to him. Domingo Muñoz, the conqueror of Cordova, Alcaydé of Anduxar, and the first Alguazil Mayor of Seville, held this command under Saint Ferdinand:—Peace be to him; he was buried under a costly tomb, adorned with his devices and bearings, in the chapel of St. Bartholomew, in the great church of Seville. It was called the chapel of the Adalides; for it was richly endowed by Domingo for himself and his inferior Adalides, 'as appears by the white book of endowments' kept in the chapter house of Seville. * The singular ceremonies with which the office was conferred upon the Adalid, are evidence of the high honours which he had, and the power which he exercised. The king was to bestow upon him rich garments, and a sword and a horse, and ‡ arms of *wood and iron*, according to the custom of the country. By a rico-home, a lord of knights, the sword was to be girt, and then a shield was placed upon the ground; the future Adalid stept upon it, and the king drew the sword out of its scabbard, and put it naked in his hand.—And now as many of the twelve Adalides as can assemble round the

† We *insist* on the dignity of the Adalid, because a writer of very high authority seems to have considered him merely as the guide of the soldiers, and not as their commander.

* Part. II. tit. 22, l. 3.

‡ *Armas de fuste et de fierro.*—Various interpretations of this obscure phrase have been suggested, and it therefore requires a note. We think the 'wood' refers solely to the shield. Alonso thus requires the knights to have cunning in armour. 'Et en las armaduras deben otrosi haber sabidoria en tres maneras: la primera si es bueno el fierro, ó el fuste, ó el cuero.'—Part. II. tit. 21, l. 10. The same phrase occurs very frequently in the charters of the towns both in Latin and in Romance.—Mr Southey's doubts respecting its translation, (Chronicle of the Cid. 419–20), may be removed by the following extract from the charter of Naxera.—'Debent Infanciones de Nagara ponere unum militem qui teneat ancepedam ubi homines de Nagara necese habuerint, cum caballo et omnibus armis *ligneis et ferreis.*'

shield, grasp its edge, and lift him up as high as they may, and they turn his face towards the east.—'In the name of God—exclaims the Adalid—I defy all the enemies of the faith, and of my Lord the King, and of his land.'—And, thus speaking, he lifted up his arm, and struck a stroke downward, and he then struck another stroke across, thus decribing in the air the 'sweet and holy sign' of redemption; and he repeated this challenge four times towards each of the quarters of the world. Thus lifted on the shield were the Kings themselves of the Goths and Franks inaugurated. The challenge resembles the defiance of the enemies of Hungary, hurled forth by the King on his coronation day. Then the Adalid sheathed his sword, and the King placed a pennon in his hand, saying—'*I grant unto thee that henceforward thou art to be an Adalid.*'—'And the Adalid who had thus been made with honour, had power to captain it over knights and honourable men, by *word*, and over the Almogavares and Peones by *deed*, § striking them and chastising them in such guise that they might neither do harm nor come to harm.'—Certes the whole duty of a captain cannot be better defined.—'Chosen for his virtue,' as Tacitus would have said, the Adalid became equal to the noblest—he bore a device, and sat at board with the knights; 'and he who scandalized the Adalid, was to be mulcted as though he had scandalized a knight;' and this was for 'the honour of the king.' An Adalid might have risen to command from the lowest rank in the Castilian army. He might have been a peon or foot soldier, but he became the fellow and companion of the hereditary nobles, the Lord of vassals, and the Rico-home. Many a noble Spanish family can show an Adalid at the head of its pedigree. Pedro Blazquez, surnamed the White, was the ancestor of the house of Davila,—Lope Garcia de Cordova of that of Saavedra.

We cannot ascertain when the Adalides are first mentioned, at least under this name, in Spanish history. King Ramiro of Leon, according to the old ballad, receives his 'Adalides' at his morning meal, on their return from their perilous exploration of the camp of Palomares.

Ya se assienta el Rey Ramiro
Ya se assienta a sus yantares,
Los tres de sus Adalides
Se le pararon delante.

Al uno llaman Armiño,
Al otro llaman Galvane,

§ Castigandolos que non vayan a logar nin en manera que fagan daño nin lo reciban.

Al otro Tello, luzero,
Que los Adalides trae.

Mantenga os Dios Señor—
Adalides—bien vengades,
Pues que nuevas me traedes
Del campo de Palomares?—

Buenas las traemos Señor
Pues que venimos acà,
Siete dias anduvimos,
Que nunca comimos pan.

Ni los cavallos cevada
De lo que nos pesa mas,
Ni entramos en poblado,
Ni vimos con quien hablar.

Few of the Spanish 'Romances' are older than the 16th century; but the Romance of King Ramiro has a tone of antiquity which is unusual in these compositions. There is something very characteristic of the days of the lance and shield, in the manner in which the Adalides are made to lament the sufferings of their horses, more than their own. The *trovador*, however, is of slender credit as an historian; and Galvan and Armino, and Tello, the Adalides of Leon, must be associated with the army of shadows whom Bernardo del Carpio led on to Roncesvalles.

In the reign of Don Juan the Second, the real Adalides had disappeared; though we still find the term applied by his chronicler, Fernan Perez de Guzman, to high military officers.—Don Juan de Roxas is called, Adalid Mayor of the Hijos d'Algo of Castile;—and to Martin Fernandez de Cordova, he gives the title of Adalid of the Donzelles: though no longer retained in its primitive sense, it then seems to have been considered as denoting high or superior command. Therefore, with all possible deference to the critical acumen of Doctor Lorenzo Galindez de Carvajal, who altered the word to *Alcayde*, we doubt the propriety of his emendation.

Who is the *Almocadene?*—'We now call those *Almocadenes*,' says the sage Alonso, 'who were *anciently* called Captains of the *Peones* or foot-soldiers.'* The name is Arabic; but Alonso was aware that it was less ancient than the office. Like the Adalid, the Almocaden was returned by the verdict of a Jury. Being of inferior estate to the Almogavar, the *Peon* did not gain access to the king in the first instance; but the candidate was to present himself to the Adalides, and to show to them his deserts and

* Part. 2. tit. xxii. ll. 5—6.

pretensions. *Twelve* Almocadenes were then to be summoned by the Adalides, and they were to be *sworn* that they would *say the truth*, if he who claimed the office was gifted with the four necessary qualifications. He was to be wise in war, stout-hearted, and loyal as the Adalid; but good common sense was not required of him. He was to be light of foot, which stood him in equal stead. When the verdict was given, he was conducted to the king, or captain of the host, by whom he was to be clothed anew, according to the custom of the country. Honours he had, allotted to his degree—a lance with a little pennon; and on this pennon he might bear such device as liked him best, in order that he might be known and guarded by his companions, 'and also that it may be known if he doth well or ill.' After the twelve Almocadenes had sworn for the candidate, they themselves took two lances, upon which he placed his feet; and he was to be lifted up towards the four quarters of the world, like the Adalid, and, like him, he was to defy the enemies of the faith, the king and the land; always presenting the point of his lance towards the quarter of the world which he defied. It might happen, that a Peon was so valiant as to deserve the rank of an Adalid; yet, notwithstanding his merit, he could not obtain this promotion until he had first served as an Almogavar trooper. Due subordination was to be observed; for, 'as the 'wise ancients have said, that which is to be good must always 'rise from one good degree to a better degree; so that a good 'Peon may become a good Almocaden, and a good Almoca-'den may become a good Almogavar trooper, and then a good 'Adalid.' A provision is added, deserving of note. Any one who created an Almocaden without the intervention of the Jury, was to be punished for the mischief which might arise from the acts of the illegitimate Almocaden. But if the formalities of the law had been observed, the Almocaden himself only answered for his defaults.

A third officer, returned by the verdict of a jury, was the *Alfaqueque*.* Alonso thus explains the word. 'In Arabic, it means a true man, who is employed to treat for the ransom of captives.'† Incessant warfare rendered this office of consi-

* Part. 2. tit. xxx. l. 1.

† By a deed, dated in November, Era 1262, Dona Pedrona, the wife of *Domingo Moro* the *Alfaqueque*, sold a *solar* at Talavera to Dona Crabriena, abbess of the Monastery of St Clement, for eighteen fanegas of wheat. The learned Jesuit, Father Andres Marina, has committed a whimsical blunder in explaining this curious instrument. He confounds the *Alfaqueque* with the *Alfaqui*.—One syllable makes a mighty difference.—And thus he transforms Domingo Moro, the true man, into Domingo the Moor, a converted Mahometan priest!

derable importance. Great trust was reposed in the Alfaqueque—' and warily should he be chosen who follows this calling of piety;'—' for if he bears any spite against the captives, or against their relations, or against their friends, he may cause them to suffer death, or great tribulation; or, at least, he may be the means of keeping them long in captivity.' And, if he was not a true man, he might do much harm to both parties, as well to the captive, as to the other who kept him in captivity. And it was fitting, that the Alfaqueque should be a man of good substance, in order that, if he absconded from justice, his property might make good the injuries which he might have occasioned to the captive. The Alfaqueque was necessarily on a good footing with the Moors; and he would naturally have greater facilities, if he chose to secrete himself among them, than other debtors or defaulters, who were strange in the ways of the Saracens. And it was also required, that he should be of a family of good fame. Qualifications like these could only be ascertained by strict inquiry. And † Alonso, in full conformity with the maxims of the English common law, directs, that the facts are to be inquired after by a jury of the visne, by whom the truth might be better known; or, as it is expressed in the Partidas, ' the election is to be made by *twelve* good men, who are to be summoned by the king or his commissioner, or the magistrate of the town wherein those who are to be chosen Alfaqueques dwell, and who are to be well acquainted with the matter, in order that they may be able to *swear* on the holy Gospel book, that those whom they shall chuse to be Alfaqueques, have all the qualifications which we have mentioned in the foregoing law.' The Alfaqueques, when returned, were to be sworn to the due performance of their office; and the grant thereof was to be made by letters patent under seal—and the Alfaqueques received a pennon, with the device of the king, in order that they might travel on their vocation with peace and dignity.

These juries were found in the navy as well as the army. * The Comitres, or captains of ships, ' who were captains of the sea, under the Admiral,' were required to have all his good qualities; and when a seaman thought that he was fit to be a Comitre, he came unto the king, or the admiral, who summoned *twelve* men, well experienced in seamanship, and who knew the man; and he made them *swear*, that they would *truly say*, whether or no the candidate had in himself the qualifications which the law required. The verdict being given, he was clad in scarlet; and he received a pennon, with the arms of the

† Part. 2. tit. xxiv. l. 4. * Part. 2. tit. xxx. l. 2.

King; and he entered the galley which he was to command, whilst the trumpets blew and the clarions were sounding. Until the kings of Castile extended their dominions from sea to sea, they had no navy. From the existence of these juries of seamen, we therefore learn the strong attachment which the Castilians had to this ancient mode of election. The custom of returning officers by the oath of twelve men, was inherent in their military system, just as trial by the oath of twelve men is inherent in our legal system. And when they created a naval army, they gave it the organization which the defenders of their country possessed as their birth-right on the land.

In civil causes, the course of proceeding, directed by the Gothic laws, is analogous to the practice of the Roman tribunals. Greater obscurity involves the administration of criminal justice. Torture sometimes extorted confession from the freeman, and always from the slave; but none of the Gothic ordeals appear, except in the law of Egica. Montanus, the bishop of Toledo, vindicated himself from an imputed crime, by bearing burning coals in the folds of his garments. This was only a miracle, and a vulgar one; but, as Mariana supposes, it gave rise to the fire ordeals of Spain. That celebrated author, however, is strangely inaccurate in asserting * that the Gothic laws (by which he means the Fuero Juzgo) frequently sanction the fire ordeal, in cases of 'adultery, theft and other crimes;' than which nothing can be more unfounded. Ordeal by fire, is said, in like manner, to have been introduced in Denmark, in consequence of the miracle worked by Saint Poppo, who bore the burning iron without harm. But it is not to be believed that a mode of trial, common to all the Teutonic nations, could have thus originated amongst the Danes and the Visigoths. The examples of the saints, only sanctioned the superstitions of their followers.

After the recovery of Spain, ordeal, both by fire and water, was in frequent use. Pope Honorius had forbidden them; and the council of Leon, in 1288, repeated the prohibition of the Holy see. In many towns, the fire and water ordeals, was reckoned amongst the bad customs, or 'fueros malos;' and exemptions from them were granted by the kings, as marks of favour; yet, in others, such ordeals were considered as va-

* Desto principio parece qui tuvo origen en España aquella costumbre generalmente recebida en otros tiempos, y della diversas vezes se trata en las leyes de los godos, pero contraria a las divinas, de la compurgacion vulgar, para descargarse de hurtos adulterios y otros delitos quando a alguno se les imponian.—*Historia de Espana, lib. 5, c. 8.*

luable privileges; and the rules for the trial were laid down in the charters with great minuteness. When the church no longer sanctioned this appeal to Providence, they defied its censures with heretical boldness. †—'Let there be a chaplain to bless the pebbles‡ and the water; *although by Rome it has been prohibited* that any clerk, in orders, should bless the pebbles, or the burning iron. And therefore, if they cannot have a clerk, let the pebbles be blessed by the Alcades, or by the Merino; and if they will not give the blessing, let the *ficles* (the trusty men) bless the pebbles, and fulfil the trial.'—If the blessing of a priest could not be had, it was thought by the men of St Juan de Peña, that a layman's benison, though of a quality somewhat inferior, would answer the purpose very nearly as well. An extract from the ritual is given by Berganza; it does not differ materially from the forms of consecration in use in France and England. Amongst many curious regulations, the charter of St Juan de Peña, provided that, if the Alcalde and the trusty men were in doubt, whether the accused had been burnt or not, they were then to call in the assistance of '*two loyal blacksmiths*, because they knew more about burns than other men.' The blacksmiths were sworn; and on their evidence the Alcalde was to give judgment. In other places, a blacksmith, who was probably considered as having too hard a hoof, was not allowed the privilege of the fire ordeal. Generally, the ordeal was merely the affirmance of disputed facts. In Leon, single women fathered their children, by bearing the burning iron. 'If she is burned, she is not to be believed; but if she escapes, let her give the infant to the father.' According to the fueros of Oviedo, * the ordeal was employed to assist presumptive or doubtful evidence. If a man suspected his neighbour of theft, and the neighbour was 'leal,' 'a true man' who had never been convicted of this crime before, and his good fame could be avouched by the council, then he cleared himself by his oath. But if he was not 'leal,' and this fact was proved by the council, then he was to purge himself by battle; or, if he was faint-hearted, he might decline battle, and 'bear the iron.'

Compurgation is directed in express terms in all the Teutonic laws; but it does not appear to have been admissible in trials conducted according to the forms prescribed by the Fuero Juzgo. When sufficient evidence was not produced, the oath of

† Fueros of San Juan de Peña.

‡ The pebbles, or *gleras*, which were to be taken out of the caldron by the culprit who plunged his arm in the boiling water.

* Amplified and confirmed by Alonso the 8th. A. D. 1073.

the defendant alone dismissed the plaintiff out of court, in a civil suit, * or subjected the accuser to the severe punishment with which the law visited a calumnious charge. † Yet, afterwards, this ordeal was widely spread as a fuero, both in civil and criminal trials. Though discountenanced by the legislature, it was retained in practice; and a forcible illustration is thus given of the stubbornness with which the Goths adhered to their 'usages and customs.' *Trial by jury*, ‡ though it, in its germ, was felt to be a benefit; and ordeal by compurgation constitutes a singular and important feature of the ancient Spanish jurisprudence,—singular and important in itself, but peculiarly valuable to us from the light which it throws on the history of the English law.—It is greatly to be regretted that no pains whatever have been taken by the Spanish writers to give it the illustration which it requires; and we only collect our knowledge of its existence from the few specimens of the ancient Spanish laws and charters which as yet have been drawn from the obscurity of their archives.

As an ancient and general usage of Castile, the trial is sanctioned in the Fuero Viejo.—As a local custom or by-law of the cities of Castile and Leon, and their dependencies, it was very frequently established, or rather *declared*, by the charters granted by their founders.—Accompanied by many marked peculiarities of the Spanish character, and adapted to Spanish polity and habits, it nevertheless agrees wholly in effect with the customs so universally adopted by the other nations of cognate race; thus proving its antiquity in Spain by its conformity to those customs,—its nationality, by its variations from them.

Three thousand sueldos, according to the Fuero Viejo, § were paid for 'dishonouring' the palace of the king, or spoiling his castle; and five hundred sueldos was the price of the head of the merino, or the composition for scandalizing him; and 'every man who wished to save himself from the payment of these mulcts, was to defend himself by the oath of *twelve men—for such was the usage of Castile in the old time.*' When accused of the death of another fijo-d'algo, ‖ the suspected noble de-

* F. J. lib. 2, tit. 2, l. 6.—L. W. lib. 2, tit. 2, l. 5.

† F. J. & L. W. lib. 6, tit. 1, l. 2.

‡ Mr Turner has shown, that the origin of the English juries in criminal trials, must be sought for in the compurgators of the Saxon laws. Absolute demonstration cannot be expected in these difficult inquiries; but few will be inclined to call in question a theory which is supported by Turner and Spelman.

§ Fuero Viejo, lib. 1, tit. 2, c. 3. ‖ F. V. lib. 1, tit. 5, c. 9.

fended himself by the oath of eleven other fijos-d'algo, *himself the twelfth;* and, as true knights, they were all '*sworn* upon the Gospel book, with their spurs upon their heels.' ‖ There were two insults only which gave a ‡ Dueña, or a Squire, the right of complaining that a fijo-d'algo had scandalized them, viz. a blow or wound, or the robbery of their mules or garments. Within three days, the party so injured by a caitiff knight was obliged to complain of the offence, and to disclose the injury to the fijos-d'algo of the town, to the labradores, and to the inmates of the fijos-d'algo, if there were any; and to cause the town-bell to be rung, saying—'Such-a-one hath thus dishonoured me.' These formalities having been observed, the fijo-d'algo was to answer the complaint; reparation was made if he confessed it, by forfeiting five hundred sueldos, the price of his own head, but, if he denied it, he was to clear himself by the oath of eleven other fijos-d'algo, '*himself the twelfth.*' But a labrador accused of injuring a fijo-d'algo was not to be admitted to defend himself by his peers; and he was unfairly compelled to swear with eleven fijos-d'algo, '*himself the twelfth.*'

These customs are taken from the general code. In peculiar districts, compurgation was so much in vogue, that compurgatrixes were allowed to female culprits. At Anguas, as well as in other towns, a woman charged with theft could defend herself by the oaths of a jury of other women. More whimsical was the Fuero of Cuenca, § which is passing strange, both for the spirit of the law and the terms in which it is expressed. 'If perchance any husband suspected that his wife had *planted horns* ‡ upon his head,' although he was not able to prove the fact by evidence, the wife was to justify herself by swearing to her chastity with *twelve good wives* of the neighbourhood; and if they pronounced her to be pure, her husband was bound to be persuaded that she was so, maugre all the suggestions of the green-eyed monster. The jealous Castilian required the unanimity of a jury of matrons, from whom his consort, if either fair *or* frail, could scarcely hope to obtain an acquittal. This is a curious variation from the Gothic customs, by which the oaths of men alone were received in these delicate inquiries. In Jutland, for instance, the law of Hensburg required that a woman who was

‖ F. V. lib. 1, tit. 5, c. 12.

‡ The wife of a Ricohombre.

§ Granted by Alonso VIII. about the year 1190.

‡ We believe this is one of the earliest allusions to the terrific 'Cimier di Cornovaglia,' which, alas! hath been placed upon so many a noble helm.

accused of adultery should justify herself by the oaths of twelve men of her husband's guild. At present, we can only recollect one instance of compurgation by females in the northern laws. Haco orders the *witch* to repel the charge of sorcery, by the oaths of six true women; but they were such as men *knew* to be good queans; so that these jurywomen must have often been exposed to a peremptory challenge.

The customs of St Sebastian in Guipuscoa * allowed of an odd kind of proceeding, resembling the assessment of damages by the verdict of a jury. The ravisher was to pay the price of virginity, or he was to marry the object of his ungovernable passion; which punishment, as the charter wisely observes, 'is fully equal to a fine.' But if she who had been a maid was unworthy of becoming his wife, he was to provide her with such a husband as she might reasonably have expected to have obtained previous to her mishap, 'according to the estimation of the alcalde, and of twelve good men of St Sebastian.' This, however, was rather a decision by twelve echevins than an ordeal; but it demonstrates their adherence to the ancient custom of appealing to the judgment of twelve men.

We have seen the cases in which compurgation was allowed by the Fuero Viejo of Castile. How far the general custumal was received in the chartered towns, is a question which we are not prepared to discuss. But in many of them the ordeal received a more extended application. The fullest directions concerning it are contained in the charter of Molina. Don Malrique de Lara incorporated the town of Molina, the seignory of the noble house of Lara, in the year 1152. His charter may be quoted as the most valuable record concerning the ancient municipal jurisprudence of Castile which has yet been published, as it displays the entire constitution and government of a Castilian town. At Molina, the mode of compurgation was singularly, and we think judiciously, varied with the nature of the offence. And in no other antient law which we have had an opportunity of consulting, is the principle upon which this trial proceeded more clearly enounced. Fines, according to the old Gothic law, were exacted at Molina for wounds and maims. The accuser was to support his charge by *three* witnesses, 'vecinos' or burghers of the town, if the offence was committed within its walls. *Two* vecinos sufficed, if without. And, in default of full proof, the culprit either swore with twelve vecinos, or fought with the accuser; but the latter had the choice of the ordeal. He who was riotous at the gate of the judge, or of the alcalde, or in the council

* Charter granted by Alonso VIII. 1202.

chamber, or in the chamber of justice on Friday, when the Court sat, forfeited an hundred maravedis. But the evidence of two alcaldes was required to convict him; and, if this was wanting, he 'swore with twelve,' and was discharged.

When a murder had been committed, if one of those engaged in the fray took the guilt upon his own head, saying, '*I killed him*,' the others were to 'save themselves with twelve true burghers'—*los otros salvense con doce vecinos derecheros.* It might happen, that none would confess the crime; and as all were then equally liable to suspicion, the relations of the dead man were at liberty to select any one as the murderer, 'just as they thought fit:' after which, the supposed murderer named *eleven* relations of the slain; and these, together with the accuser, swore to his being guilty or not guilty. Unanimity was required; and if one or two would not swear, that is to say, if they could not agree with the majority, each who was so dissentient 'swore with twelve,' that neither he, nor any one for his use, had received any bribe; then he was discharged. But the defendant did not 'fall' by the withdrawing of his juror; and he was at liberty to name another. This proceeding is remarkable; a new aspect is given to the ordeal, by calling in the compurgators to swear with the *accuser* instead of the accused; and in this form it is perhaps more closely assimilated to a jury trial. It may be observed, that a practice once prevailed in England, of withdrawing the dissentient jurors, and replacing them by others, till an unanimous verdict was obtained. The continuation of the law of Molina is obscure, and a part of the text seems to be lost. If there were no relations, we think it appears that the accuser was supported by the oath of twelve burghers taken at large from the town. The fraudulent substitution of a stranger was punished by the payment of the full weregild. Though the charter of Molina is very minute, yet no provision is made for murder committed otherwise than in a quarrel among many. This strongly indicates the prevalence of party feuds and family enmities. When *one* man killed another, he must either have been judged by the Fuero Juzgo or the Fuero Viejo, or the regulations in the charter were followed as nearly as might be. Battle might be demanded in many cases; but it was always in the power of the appellant, after he had so demanded it, to waive the proof by the body, and to require the appellee to 'swear with twelve,' or, as it may be said, to put himself upon a jury. Compurgation was gaining ground, and considered as better adapted for the furtherance of justice than the appeal to arms.

Legal usages, such as the battle and fire ordeals, appear to place the middle ages at an immeasurable distance from us, and teach us to consider those who lived in them as beings alike

ignorant and depraved, and with whom we are less in communion than with the savages of New Zealand. We are not wholly estranged by their domestic habits, their sports or their solemnities. We are not inclined to shun the moated castle, nor do we rush away from Deis and the festive board. Unwonted spectacles are no doubt exhibited there; yet not so wildly rude as to be repugnant to our nature. We can imagine ourselves quaffing from the beaker of Hypocras, or sipping piment and morat. After a due course of starvation, it is not impossible but that we might have swallowed a mess of 'charlot gentyl,' or even have made a meal of that royal dainty, a barbacued porpoise. Knights justing in the lists, or monks chanting in the choir, rise up before us like splendid visions or holy dreams; and, forgetting the evils of feudality and popery, we contemplate the pageants with enthusiasm. On a nearer view, indeed, their beauty fades. But the noble and the burgess reeking in coarseness; the soldier abusing his brutal strength; and the priest wallowing in the filth of superstition; are not so intolerable as the seeming profanation of the sacred name of Justice. Accustomed to the patient and impartial trial of the culprit, we shudder at the superstitious ferocity which surrendered the victim to the ordeal of the fire; we execrate the barbarous law which compelled the accused and accuser to risk their lives in judicial contest; or we deplore the pious folly which bade the criminal go forth unpunished, when twelve good men had sworn to his innocence. Were not these trials calculated for the oppression of the guiltless, and the protection of the ill doer? Yet those who appealed to the chance of the field, or the 'judgments of God,' were not destitute of good sense and discernment; and they must have deceived themselves into a toleration of the inconveniences attendant on these proceedings. Some allowance must be made for prevailing opinions. Words exercise a strange witchery over the wisest of us all. *We* who are so well pleased with our own wisdom and humanity, do not hesitate to settle points of honour by the pistol: *They*, with equal willingness, decided points of law with club and target. An age of good order and refinement, in which duelling is cherished by the 'unwritten usages' constituting the code of society, may perhaps excuse the age of turbulence and ferocity, in which ordeal by battle was allowed to retain its place in the code of law. If our great grandchildren advance as rapidly in the scale of civilization as we have done, it is possible that they may learn to consider a meeting at Chalk-farm in the same light as we now view a battle before the Judges of the kingdom of Jerusalem. But in the mean while, let us do justice, both to the twelfth century and to the nine-

teenth, by confessing, that in both, this apparently absurd appeal to arms has given that protection to the individual which he could scarcely have obtained without it. Our courts of law will not grant us adequate redress for those injuries which inflict the keenest pain. § Not a farthing can be recovered against him who salutes us as rogues or liars. Nor can the spotless virgin maintain an action against the foul-mouthed wretch who prefers a verbal charge of incontinency against her, 'unless any damage ensues which may be considered by the wisdom of the law as affording her a foundation for a *per quod.*' But the half drunken bully stops short in the middle of the words of affront, anticipating the unwelcome civility of the challenge, and the cool politeness of the *friend* who bears it. Rapine and lust, in like manner, might not be restrained by the tribunals of a feudal kingdom, conniving at crimes, or fearing to punish them; but they must have often been checked by the salutary terrors of the solemn battle.

Sentiments which, if not praiseworthy, were at least excusable, dictated the ordeals of the ploughshare and the caldron, and required the assisting testimony of the compurgator. With a firm and lively faith, * the omniscience of the Almighty was invoked by Judges who distrusted the wisdom of man: But though distrusting his wisdom, they confided in his faith; and therefore, they hesitated to doubt the truth of his appeal to his Creator. By degrees, the mistaken piety which tempted Providence, and required the Author of the universe to subvert the laws of nature, yielded to a rational reliance on those faculties which His goodness has bestowed upon us. Another mode of trial, however, remained,—Ordeal by compurgation, which, though less awful, seems, according to our ideas of judicial investigation, to afford room for equal, if not for greater abuses. We may conjecture how the criminal would labour to evade the 'judgment of God.'—He granted his broad lands to holy church in purchase of the favour of the priest; and his hand was anointed with juices and medicaments of wondrous potency—and during the lengthened recitation of the prayer and the psalm, the intense radiance of the probationary iron became dimmed into an obscurer glow. Yet, even then, sufficient danger still accompanied the fiery proof, to render it appalling: But he who might wage

§ Blackstone's Commentaries, v. iii. p. 124–5.

* Deus cujus notitiam nulla unquam secreta effugiunt, fidei nostræ tua comitate responde et præsta, ut quisquis purgandi ex gratia hoc ignitum tulerit ferrum, vel absolvatur innocens vel rei noxius detegatur. *Formulæ solennes exorcismorum. Lind.* p. 1310.

his law, was declared guiltless of the imputed crime, or discharged from the fulfilment of the obligation, by an easier trial. An oath confirmed his own denial of the charge. Friends or relations, whom he himself had named, declared their belief in the truth of his denial. They, too, indeed, were bound by oath; but the free judgment of the compurgators might be fettered by the ties of blood or fellowship; or the irresistible force of self-interest would conquer their conscientious scruples; and audacity and perjury, without doubt, often succeeded in gaining many a triumph over good faith and justice.

Great defects were inseparable from trial by compurgation; but they were in some measure compensated by its advantages. People who were insensible to the nicer or conventional delicacies of reputation, were taught to defer to public opinion, whose influence is more beneficial to society, in checking the commission of bad deeds, than in stimulating to the performance of great ones. An inestimable value was given to unblemished character. To those who were of fair fame and good repute, trial by compurgation afforded an efficient protection against calumny and malice; but to them alone. Notwithstanding the influence of relationship and clanship, or of more tempting and degrading motives, the Gentleman or the Citizen, if his deeds had borne a questionable shape, would have some difficulty in persuading twelve, or twenty-four, or thirty-six good men and true, to become forsworn in his defence. Perhaps the *very* powerful and the *very* rich may have assembled their compurgators with greater ease: But no additional impunity was thereby given to those great flies,—who, in all states of society, contrive to escape the cobweb meshes of the law, than they would have possessed, had compurgation been denied to them. The heart of the widowed one was faint, when the King's companion, stood in the great hall of the King's palace, before the table of marble stone, surrounded by his meisney of willing believers in his innocence.—Did she cry aloud for vengeance on their perjuries?—Alas!—arguments such as convinced them that the tale of woe was false, would have been equally irresistible, if addressed to the haughty Seneschal, or the high-born Justiciar, wrapped in the robe of scarlet and ermine bestowed upon him by royal favour.—Was the right hand of each Baron uplifted towards heaven, whilst he repeated the solemn oath which screened the noble miscreant from his deserved punishment?—If sentence had been passed, these same hands would have drawn the sword with equal readiness to defend him.

Consistency was not to be expected, before jurisprudence settled into a regular system. Sometimes the original principle of compurgation may have been forgotten; but it should always be remembered that in their strict and primitive form, these oaths of delivery were never allowed but when the plea of the defendant was opposed to the unauthenticated claim of the demandant, or to an arraignment supported only by presumptive evidence, or the naked oath of the accuser. Oath then counterbalanced oath,—and the compurgators turned the scale.

We have dilated on the subject of the compurgative ordeal, because we consider it as the basis upon which our criminal jurisprudence has been erected. The Goths and the Saxons alike endeavoured to lay the foundation of the sanctuary of justice. Each followed a simple and inartificial plan. But whilst ours has arisen into a proud and majestic structure, theirs has mouldered into ruin.—Spain, whilst it constituted the Gothic monarchy, and Leon and Castile, until the full admission of the Partidas, enjoyed a system of laws which, although they cannot be identified with the laws and customs of the Anglo-Saxons, were yet accordant with them both in the general bearing, and in many of the details. Let it be, however, remarked, that the Castilian labrador was compelled to resort to the oaths of his superiors: But our Alfred commanded the Saxon landholder to justify himself with eleven of his even-thanes, and one king's-thane alone; and the humblest Saxon freeman could always claim a jury of his equals. Notwithstanding the absence of this generous spirit of the Saxon law, compurgation seems to have been more favoured in Castile than the ordeals of fire or battle. This is evinced by the charter of Molina. It may appear improper to draw conclusions respecting the general customs of a kingdom from the by-laws of one chartered town: But Don Manrique would select such usages as were common amongst the Castilians, whom he sought to draw together as settlers in his colony; and he would confirm to them such privileges as were most prized. Nor because the 'Fuero Viejo' only directs the 'oaths of twelve,' in two or three peculiar cases, must we infer that it was excluded in all others. When our law-books define a felony, it is not necessary to add, that a jury is to be impanelled to determine it. The student is presumed to be acquainted with the general course of trial.

Whatever had been the 'usages of Castile in the old time,' they became wholly obsolete in the second era of Castilian jurisprudence. All the Fueros of the towns were superseded by the Fuero Real of Alonso, and by his more celebrated work, the

Partidas. Although solemnly confirmed by Pedro el Justiciero, the 'Fuero Viejo' also yielded to the elaborate laws of Alonso, after they had been promulgated in the Cortes of Alcala. Of the ancient ordeals, trial by battle alone was allowed by Alonso, chiefly in cases touching fame and honour; but the disciples of Bartholus and Baldus would not concern themselves with the Gothic juries of deliverance, which were withheld from the defendant when the Spanish tribunals were subjected to their control.

Continuing in this imperfect state, the Spanish jury was of dubious utility: and no efforts were made to give it the improvements of which it was susceptible. The Legislature and the people of the Castilian kingdoms, abandoned the Gothic ordeal, without attempting to mould it into a more equitable form, or to combine it with more liberal principles of legislation. Its suppression, therefore, excited neither anxiety nor regret. They cast away the unpolished gem, contemning its worth, and disdaining the labour of bringing out its lustre. Far different was the cheering progress of the laws of England. Never wholly or suddenly departing from their pristine character, it has been the peculiar happiness and blessing of this country, that the institutions of the early ages have lost their rudeness, but retained their vigour. The erring tests of truth have been allowed to sink into oblivion; but the cumbersome array of compurgators, which often averted the righteous vengeance of the law, has been gradually matured into that great tribunal of our peers, which will ever remain the best safeguard of life and freedom.

ART. VI. 1. *Travels in Canada and the United States, in* 1816 *and* 1817. *By* Lieutenant FRANCIS HALL, 14th Light Dragoons, H. P. 8vo. London. Longman & Co. 1818.

2. *Journal of Travels in the United States of North America, and in Lower Canada, performed in the Year* 1817, *&c. &c. By* JOHN PALMER. 8vo. London. Sherwood, Neely & Jones. 1818.

3. *A Narrative of a Journey of Five Thousand Miles through the Eastern and Western States of America; contained in Eight Reports, addressed to the Thirty-nine English Families by whom the Author was deputed, in June* 1817, *to ascertain whether any, and what part of the United States would be suitable for their Residence. With Remarks on Mr Birkbeck's 'Notes' and 'Letters.' By* HENRY BRADSHAW FEARON. 8vo. London, Longman & Co. 1818.

4. *Travels in the Interior of America, in the Years* 1809, 1810, *and* 1811, *&c. &c. By* JOHN BRADBURY, F. L. S. Lond. 8vo. London. Sherwood, Neely & Jones. 1817.

THESE four books are all very well worth reading, to any person who feels, as we do, the importance and interest of the subject of which they treat. They contain a great deal of information and amusement; and will probably decide the fate, and direct the footsteps, of many human beings, seeking a better lot than the Old World can afford them. Mr Hall is a clever, lively man, very much above the common race of writers; with very liberal and reasonable opinions, which he expresses with great boldness,—and an inexhaustible fund of good humour. He has the elements of wit in him; but sometimes is trite and flat when he means to be amusing. He writes verses, too, and is occasionally long and metaphysical: But, upon the whole, we think highly of Mr Hall; and deem him, if he is not more than twenty-five years of age, an extraordinary young man. He is not the less extraordinary for being a Lieutenant of Light Dragoons—as it is certainly somewhat rare to meet with an original thinker, an indulgent judge of manners, and a man tolerant of neglect and familiarity, in a youth covered with taggs, feathers, and martial foolery.

Mr Palmer is a plain man, of good sense, and slow judgment.—Mr Bradbury is a botanist, who lived a good deal among the savages, but worth attending to.—Mr Fearon is a much abler writer than either of the two last, but no lover of America,—and a little given to exaggeration in his views of vices and prejudices.

Among other faults with which our Government is chargeable, the vice of *impertinence* has lately crept into our Cabinet; and the Americans have been treated with ridicule and contempt. But they are becoming a little too powerful, we take it, for this cavalier sort of management; and are increasing with a rapidity which is really no matter of jocularity to us, or the other powers of the Old World. In 1791, Baltimore contained 13,000 inhabitants; in 1810, 46,000; in 1817, 60,000. In 1790, it possessed 13,000 tons of shipping; in 1798, 59,000; in 1805, 72,000; in 1810, 103,444. The progress of Philadelphia is as follows.

	Houses.		Inhabitants.
In 1683 there were in the city	80	and	600
1700 - - -	700		5,000
1749 - -	2,076		15,000
1760 - - -	2,969		20,000

	Houses.		Inhabitants.
' In 1769 there were in the city	4,474	and	30,000
1776 - - -	5,460		40,000
1783 - - -	6,000		42,000
1806 - - -	13,000		90,000
1810 - -	22,769		100,000

' Now, it is computed there are at least 120,000 inhabitants in the city and suburbs, of which 10,000 are free coloured people.' *Palmer*, p. 254, 255.

The population of New-York (*the city*), in 1805, was 60,000; it is now 120,000. Their shipping, at present, amounts to 300,000 tons. The population of *the state* of New-York was, at the accession of his present Majesty, 97,000, and is now near 1,000,000. Kentucky, first settled in 1773, had, in 1792, a population of 100,000, and in 1810, 406,000. Morse reckons the whole population of the western territory, in 1790, at 6000; in 1810 it was near half a million; and will probably exceed a million in 1820. These, and a thousand other equally strong proofs of their increasing strength, tend to extinguish pleasantry, and provoke thought.

We were surprised and pleased to find from these accounts, that the Americans on the Red River and the Achansas River, have begun to make sugar and wine. Their importation of wool into this country, is becoming also an object of some consequence; and they have inexhaustible supplies of salt and coal. But one of the great sources of wealth in America is, and will be, an astonishing command of inland navigation; the Mississippi, flowing from the north to the Gulf of Mexico, through seventeen degrees of latitude; the Ohio and the Alleghany almost connecting it with the Northern Lakes; the Wabash, the Illinois, the Missouri, the Achansas, the Red River, flowing from the confines of New Mexico. These rivers, all navigable, and most of them already frequented by steam-boats, constitute a facility of internal communication, not, we believe, to be paralleled in the whole world.

One of the great advantages of the American Government is its cheapness. The American king has about 5000*l.* per annum, the vice-king 1000*l.* They hire their Lord Liverpool at about a thousand per annum, and their Lord Sidmouth (a good bargain) at the same sum. Their Mr Crokers are inexpressibly reasonable,—somewhere about the price an English doorkeeper, or bearer of a mace. Life, however, seems to go on very well, in spite of these low salaries; and the purposes of Government to be very fairly answered. Whatever may be the

evils of Universal Suffrage in other countries, they have not yet been felt in America; and one thing, at least, is established by her experience, that this institution is not necessarily followed by those tumults, the dread of which excites so much apprehension in this country. In the most democratic states, where the payment of direct taxes is the only qualification of a voter, the elections are carried on with the utmost tranquillity; and the whole business, by taking votes in each parish or section, concluded all over the state in a single day. A great deal is said by Fearon about *Caucus*, the cant word of the Americans for the committees and party meetings in which the business of the elections is prepared—the influence of which he seems to consider as prejudicial. To us, however, it appears to be nothing more than the natural, fair, and unavoidable influence, which talent, popularity and activity, always must have upon such occasions. What other influence can the leading characters of the democractic party in Congress possibly possess? Bribery is entirely out of the question—equally so is the influence of family and fortune. What then can they do, with their caucus or without it, but recommend? And what charge is it against the American government to say, that those members of whom the people have the highest opinion, meet together to consult whom they shall recommend for President, and that their recommendation is successful in their different States? Could any friend to good order wish other means to be employed, or other results to follow? No statesman can wish to exclude influence, but only bad influence;—not the influence of sense and character, but the influence of money and punch.

A very disgusting feature in the character of the present English government, is its extreme timidity, and the cruelty and violence to which its timidity gives birth. Some hot-headed young person, in defending the principles of Liberty, and attacking those abuses to which all governments are liable, passes the bounds of reason and moderation, or is thought to have passed them, by those whose interest it is to think so. What matters it whether he has or not? You are strong enough to let him alone. With such institutions as ours, he can do no mischief; perhaps he may owe his celebrity to your opposition; or, if he must be opposed, write against him,—set Candidus, Scrutator, Vindex, or any of the conductitious penmen of Government to write him down; any thing but the savage spectacle of a poor wretch, perhaps a very honest man, contending in vain against the weight of an immense Government, pursued by a zealous attorney, and sentenced, by some candidate perhaps for the favour of

the Crown, to the long miseries of the dungeon. * A still more flagrant instance may be found in our late suspensions of the Habeas Corpus act. Nothing was trusted to the voluntary activity of a brave people, thoroughly attached to their Government—nothing to the good sense and prudence of the gentlemen and yeomen of the country—nothing to a little forbearance, patience and watchfulness. There was no other security but despotism; nothing but the alienation of that right which no king nor minister can love, and which no human beings but the English have had the valour to win, and the prudence to keep. The contrast between our Government and that of the Americans, upon the subject of suspending the Habeas Corpus, is drawn in so very able a manner by Mr Hall, that we must give the passage at large.

'It has ever been the policy of the Federalists to "strengthen the hands of Government." No measure can be imagined more effectual for this purpose, than a law which gifts the ruling powers with infallibility; but no sooner was it enacted, than it revealed its hostility to the principles of the American system, by generating oppression under the cloak of defending social order.

'If there ever was a period when circumstances seemed to justify what are called energetic measures, it was during the administrations of Mr Jefferson and his successor. A disastrous war began to rage, not only on the frontiers, but in the very penetralia of the republic.

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* A great deal is said about the independence and integrity of English Judges. In causes between individuals, they are strictly independent and upright; But they have strong temptations to be otherwise, in cases where the Crown prosecutes for libel. Such cases often involve questions of party, and are viewed with great passion and agitation, by the Minister and his friends. Judges have often favours to ask for their friends and families, and dignities to aspire to for themselves. It is human nature, that such powerful motives should create a great bias against the prisoner. Suppose the Chief Justice of any Court to be in an infirm state of health, and a Government libel-cause to be tried by one of the Puisne Judges,—of what immense importance is it to that man to be called a strong friend to Government—how injurious to his natural and fair hopes to be called lukewarm, or addicted to popular notions—and how easily the runners of the Government would attach such a character to him? The useful inference from these observations is, that in all Government cases, the Jury, instead of being influenced by the cant phrases about the integrity of English Judges, should suspect the operation of such motives—watch the Judge with the most acute jealousy—and compel him to be honest, by throwing themselves into the opposite scale whenever he is inclined to be otherwise.

To oppose veteran troops, the ablest generals, and the largest fleets in the world; the American government had raw recruits, officers who had never seen an enemy, half a dozen frigates, and a population unaccustomed to sacrifices, and impatient of taxation. To crown these disadvantages, a most important section of the Union, the New England States openly set up the standard of separation and rebellion. A convention sat for the express purpose of thwarting the measures of Government; while the press and pulpit thundered every species of denunciation against whoever should assist their own country in the hour of danger. * And this was the work, not of Jacobins and Democrats, but of the staunch friends of religion and social order, who had been so zealously attached to the Government while it was administered by their own party, that they suffered not the popular breath "to visit the President's breech too roughly."

'The course pursued, both by Mr Jefferson and Mr Maddison, throughout this season of difficulty, merits the gratitude of their country, and the imitation of all governments pretending to be free.

'So far were they from demanding any extraordinary powers from Congress, that they did not even enforce, to their full extent, those with which they were by the Constitution invested. The process of reasoning, on which they probably acted, may be thus stated. The majority of the nation is with us, because the war is national. The interests of a minority suffer; and self-interest is clamorous when injured. It carries its opposition to an extreme, inconsistent with its political duty. Shall we leave it an undisturbed career of faction, or seek to put it down with libel and sedition laws? In the first case, it will grow bold from impunity; its proceedings will be more and more outrageous: but every step it takes to thwart us, will be a step in favour of the enemy, and, consequently, so much ground lost in public opinion. But as public opinion is the only instrument by which a minority can convert a majority to its views, impunity, by revealing its motives, affords the surest chance of defeating its intent. In the latter case, we quit the ground of reason, to take that of force: we give the factious the advantage of seeming

* 'In Boston, associations were entered into for the purpose of preventing the filling up of Government loans. Individuals, disposed to subscribe, were obliged to do it in secret, and conceal their names, as if the action had been dishonest.—*Vide* "Olive Branch," p. 307. At the same time, immense runs were made by the Boston banks on those of the Central and Southern States; while the specie thus drained was transmitted to Canada, in payment for smuggled goods, and British Government bills, which were drawn in Quebec, and disposed of in great numbers, on advantageous terms, to moneyed men in the States. Mr Henry's mission is the best proof of the result anticipated by our Government from these proceedings in New England.

persecuted: by repressing intemperate discussion, we confess ourselves liable to be injured by it. If we seek to shield our reputation by a libel-law, we acknowledge, either that our conduct will not bear investigation, or that the people are incapable of distinguishing betwixt truth and falsehood: But for a popular government to impeach the sanity of the nation's judgment, is to overthrow the pillars of its own elevation.

'The event triumphantly proved the correctness of this reasoning. The Federalists awoke from the delirium of factious intoxication, and found themselves covered with contempt and shame. Their country had been in danger, and they gloried in her distress. She had exposed herself to privations, from which they had extracted profit. In her triumphs they had no part, except that of having mourned over and depreciated them. Since the war, Federalism has been scarcely heard of.'—*Hall*, 508–511.

The Americans, we believe, are the first persons who have discarded the taylor in the administration of justice, and his auxiliary the barber—two persons of endless importance in the codes and pandects of Europe. A Judge administers justice without a calorific wig and particoloured gown, in a coat and pantaloons. He is obeyed, however: and life and property are not badly protected in the United States. We shall be denounced by the Laureate as atheists and jacobins; but we must say, that we have doubts whether one atom of useful influence is added to men in important situations, by any colour, quantity, or configuration of cloth and hair. The true progress of refinement, we conceive, is to discard all the mountebank drapery of barbarous ages. One row of gold and fur falls off after another from the robe of power, and is pick'd up and worn by the parish beadle and the exhibiter of wild beasts. Meantime, the afflicted wiseacre mourns over equality of garment; and wotteth not, of two men whose doublets have cost alike, how one shall command, and the other obey.

The dress of lawyers, however, is, at all events, of less importance than their charges. Law is cheap in America: In England, it is better, in a mere pecuniary point of view, to give up forty pounds, than to contend for it in a court of common law. It costs that sum in England to win a cause; and, in the Court of Equity, it is better to abandon five hundred, or a thousand pounds, than to contend for it. We mean to say nothing disrespectful of the Chancellor—who is an upright judge, a very great lawyer, and zealous to do all he can; but we believe the Court of Chancery to be in a state which imperiously requires Legislative correction. We do not accuse it of any malversation, but of a complication, formality, entanglement and delay, which the life, the wealth, and the patience of man cannot endure. How such a subject

comes not to have been taken up in the House of Commons, we are wholly at a loss to conceive. We feel for climbing boys as much as any body can do; but what is a climbing boy in a chimney to a full grown suitor in the Master's office? And whence comes it, in the midst of ten thousand compassions and charities, that no Wilberforce, Bennet, or Sister Fry, has started up for the suitors in Chancery? and why, in the name of these afflicted and attorneyworn people, are there united in their judge three or four offices, any one of which is sufficient to occupy the whole time of a very able and active man?

There are no very prominent men at present in America; at least none whose fame is strong enough for exportation. Munro is a man of plain unaffected good sense. Jefferson, we believe, is still alive; and has always been more remarkable, perhaps, for the early share he took in the formation of the Republic, than from any very predominant superiority of understanding. Mr Hall made him a visit.

'I slept a night at Monticello, and left it in the morning, with such a feeling as the traveller quits the mouldering remains of a Grecian temple, or the pilgrim a fountain in the desert. It would indeed argue great torpor, both of understanding and heart, to have looked without veneration and interest, on the man who drew up the declaration of American independence; who shared in the councils by which her freedom was established; whom the unbought voice of his fellow-citizens called to the exercise of a dignity, from which his own moderation impelled him, when such example was most salutary, to withdraw; and who, while he dedicates the evening of his glorious days to the pursuits of science and literature, shuns none of the humbler duties of private life; but, having filled a seat higher than that of kings, succeeds with graceful dignity to that of the good neighbour, and becomes the friendly adviser, lawyer, physician, and even gardener of his vicinity. This is the "still small voice" of philosophy, deeper and holier than the lightnings and earthquakes which have preceded it. What monarch would venture thus to exhibit himself in the nakedness of his humanity? On what royal brow would the laurel replace the diadem?' *Hall*, 384, 385.

Mr Fearon dined with another of the Ex-Kings, Mr Adams.

'The ex-president is a handsome old gentleman of eighty-four;—his lady is seventy-six:—she has the reputation of superior talents, and great literary acquirements. I was not perfectly a stranger here; as, a few days previous to this, I had received the honour of an hospitable reception at their mansion. Upon the present occasion the minister (the day being Sunday) was of the dinner party. As the table of a "*late King*" may amuse some of you, take the following particulars:—first course, a pudding made of Indian corn, molasses, and butter;—second, veal, bacon, neck of mutton, potatoes, cabbages, carrots, and Indian beans; Madeira wine, of which each drank

two glasses. We sat down to dinner at one o'clock: at two, nearly all went a second time to church. For tea, we had pound-cake, sweet bread and butter, and bread made of Indian corn and rye (similar to our brown home-made.) Tea was brought from the kitchen, and handed round by a neat, white servant-girl. The topics of conversation were various.—England, America, religion, politics, literature, science, Dr Priestley, Miss Edgeworth, Mrs Siddons, Mr Kean, France, Shakspeare, Moore, Lord Byron, Cobbett, American revolution, the traitor General Arnold.

'The establishment of this political patriarch consists of a house two stories high, containing, I believe, eight rooms; of two men and three maid servants; three horses, and a plain carriage. How great is the contrast between this individual—a man of knowledge and information—without pomp, parade, or vitious and expensive establishments, as compared with the costly trappings, the depraved characters, and the profligate expenditure of ——— House, and ———! What a lesson *in this* does America teach! There are now in this land, no less than three Cincinnati!' *Fearon*, 111–13.

The travellers agree, we think, in complaining of the insubordination of American children—and do not much like American ladies. In their criticisms upon American gasconade, they forget that vulgar people of all countries are full of gasconade. The Americans love titles.—The following extract from the Boston Sentinel of last August 1817, is quoted by Mr Fearon.

'"*Dinner to Mr Adams.*—Yesterday a public dinner was given "to the *Hon.* John Q. Adams, in the Exchange Coffee-House, by "his fellow-citizens of Boston. The *Hon.* Wm. Gray presided, as- "sisted by the *Hon.* Harrison Gray Otis, George Blake, Esq. and "the *Hon.* Jonathan Mason, vice-presidents. Of the guests were, "the *Hon.* Mr Adams, late president of the United States, his *Ex-* "*cellency* Governor Brooks, his *Honor* Lt. Gov. Phillips, Chief Jus- "tice Parker, Judge Story, President Kirkland, Gen. Dearborn, "Com. Hull, Gen. Miller, several of the reverend clergy, and many "public officers, and strangers of eminence."'

They all, in common with Mr Birkbeck, seem to be struck with the indolence of the American character. Mr Fearon makes the charge; and gives us below the right explanation of its cause.

'The life of boarders at an American tavern, presents the most senseless and comfortless mode of killing time which I have ever seen. Every house of this description that I have been in, is thronged to excess; and there is not a man who appears to have a single earthly object in view, except spitting and smoking segars. I have not seen a book in the hands of any person since I left Philadelphia. Objectionable as these habits are, they afford decided evidence of the prosperity of that country, which can admit so large a body of its

citizens to waste in indolence three-fourths of their lives, and would also appear to hold out encouragement to Englishmen with *English habits*, who could retain their industry amid a nation of indolence, and have sufficient firmness to live in America, and yet bid defiance to the deadly example of its natives.' *Fearon*, p. 252, 253. Yet this change can hardly apply to the north-eastern parts of the Union.

The following sample of American vulgarity is not unentertaining.

'On arriving at the tavern door the landlord makes his appearance.—*Landlord.* Your servant, gentlemen, this is a fine day. *Answer.* Very fine.—*Land.* You've got two *nice creatures*, they are *right elegant* matches. *Ans.* Yes, we bought them for matches.—*Land.* They cost a *heap* of dollars, (a pause, and knowing look; 200 I *calculate*. *Ans.* Yes, they cost a good sum.—*Land. Possible!* (a pause) going westward to Ohio, gentlemen. *Ans.* We are going to Philadelphia.—*Land.* Philadelphia, ah! that's a *dreadful* large place, three or four times as *big* as Lexington. *Ans.* Ten times as large.—*Land.* Is it by George! what a *mighty heap* of houses, (a pause); but I *reckon* you was not *reared* in Philadelphia. *Ans.* Philadelphia is not our native place.—*Land.* Perhaps *away up* in Canada. *Ans.* No, we are from England.—*Land. Is it possible!* well I *calculated* you were from abroad, (pause); how long have you been from the *old country?* *Ans.* We left England last March.—*Land.* And in August here you are in *Kentuck*. Well, I should have *guessed* you had been in the States some years; you speak almost as good English as we do!

'This dialogue is not a literal copy; but it embraces most of the frequent and improper applications of words used in the back country, with a few New England phrases. By the loghouse farmer and tavern keeper, they are used as often, and as erroneously, as they occur in the above discourse.'—*Palmer*, p. 129, 130.

This is of course intended as a representation of the manners of the low, or, at best, the middling class of people in America.

The four travellers, of whose works we are giving an account, made extensive tours in every part of America, as well in the old as in the new settlements; and, generally speaking, we should say their testimony is in favour of American manners. We must except, perhaps, Mr Fearon;—and yet he seems to have very little to say against them. Mr Palmer tells us, that he found his companions, officers and farmers, unobtrusive, civil, and obliging;—that what the servants do for you, they do with alacrity;—that at their *tables d'hôtes* ladies are treated with great politeness. We have real pleasure in making the following extract from Mr Bradbury's tour.

'In regard to the manners of the people west of the Alleghanies, it would be absurd to expect that a general character could be now formed, or that it will be, for many years yet to come. The population is at present compounded of a great number of nations, not yet

amalgamated, consisting of emigrants from every State in the Union, mixed with English, Irish, Scotch, Dutch, Swiss, Germans, French, and almost from every country in Europe. In some traits they partake in common with the inhabitants of the Atlantic States, which results from the nature of their government. That species of hauteur which one class of society in some countries show in their intercourse with the other, is here utterly unknown. By their constitution, the existence of a privileged order, vested by birth with hereditary privileges, honours, or emoluments, is for ever interdicted. If, therefore, we should here expect to find that contemptuous feeling in man for man, we should naturally examine amongst those clothed with judicial or military authority: but we should search in vain. The justice on the bench, or the officer in the field, is respected and obeyed whilst discharging the functions of his office, as the representative or agent of the law, enacted for the *good of all*; but should he be tempted to treat even the least wealthy of his neighbours or fellow-citizens with contumely, he would soon find that he could not do it with impunity. Travellers from Europe, in passing through the western country, or indeed any part of the United States, ought to be previously acquainted with this part of the American character, and more particularly if they have been in the habit of treating with contempt, or irritating with abuse, those whom accidental circumstances may have placed in a situation to administer to their wants. Let no one here indulge himself in abusing the waiter or ostler at an inn: that waiter or ostler is probably a citizen, and does not, nor cannot conceive, that a situation in which he discharges a duty to society, not in itself dishonourable, should subject him to insult: but this feeling, so far as I have experienced, is entirely defensive. I have travelled near 10,000 miles in the United States, and never met with the least incivility or affront.

'The Americans, in general, are accused by travellers of being inquisitive. If this be a crime, the western people are guilty; but, for my part, I must say that it is a practice that I never was disposed to complain of, because I always found them as ready to answer a question as to ask one, and therefore I always came off a gainer by this kind of barter; and if any traveller does not, it is his own fault. As this leads me to notice their general conduct to strangers, I feel myself bound, by gratitude and regard to truth, to speak of their hospitality. In my travels through the inhabited parts of the United States, not less than 2000 miles was through parts where there were no taverns, and where a traveller is under the necessity of appealing to the hospitality of the inhabitants. In no one instance has my appeal been fruitless; although, in many cases, the furnishing of a bed has been evidently attended with inconvenience, and in a great many instances no remuneration would be received. Other European travellers have experienced this liberal spirit of hospitality, and some have repaid it by calumny.' *Bradbury*, p. 304–306.

We think it of so much importance to do justice to other

nations, and to lessen that hatred and contempt which race feels for race, that we subjoin two short passages from Mr Hall to the same effect.

'I had bills on Philadelphia, and applied to a respectable storekeeper, that is, tradesman, of the village, to cash me one; the amount, however, was beyond any remittance he had occasion to make, but he immediately offered me whatever sum I might require for my journey, with no better security than my word, for its repayment at Philadelphia: he even insisted on my taking more than I mentioned as sufficient. I do not believe this trait of liberality would surprise an American; for no one in the States, to whom I mentioned it, seemed to consider it as more than any stranger of respectable appearance might have looked for, in similar circumstances: But it might well surprise an English traveller, who had been told, as I had, that the Americans never failed to cheat and insult every Englishman who travelled through their country, especially if they knew him to be an officer. This latter particular they never failed to inform themselves of, for they are by no means bashful in inquiries; but if the discovery operated in any way upon their behaviour, it was rather to my advantage; nor did I meet with a single instance of incivility betwixt Canada and Charleston, except at the Shenandoah Point, from a drunken English deserter.—My testimony, in this particular, will certainly not invalidate the complaints of many other travellers, who, I doubt not, have frequently encountered rude treatment, and quite as frequently deserved it; but it will at least prove the possibility of traversing the United States without insult or interruption, and even of being occasionally surprised by liberality and kindness.'—*Hall*, p. 255, 256.

'I fell into very pleasant society at Washington. Strangers who intend staying some days in a town, usually take lodgings at a boarding-house, in preference to a tavern: in this way, they obtain the best society the place affords; for there are always gentlemen, and frequently ladies, either visitors or temporary residents, who live in this manner to avoid the trouble of housekeeping. At Washington, during the sittings of Congress, the boarding-houses are divided into messes, according to the political principles of the inmates, nor is a stranger admitted without some introduction, and the consent of the whole company. I chanced to join a democratic mess, and name a few of its members with gratitude, for the pleasure their society gave me—Commodore Decatur and his lady, the Abbé Correa, the great botanist and plenipotentiary of Portugal, the Secretary of the Navy, the Secretary of the Navy Board. known as the author of a humourous publication, entitled "John Bull and Brother Jonathan," with eight or ten members of Congress, principally from the Western states, which are generally considered as most decidedly hostile to England, but whom I did not on this account find less good-humoured and courteous. It is from thus living in daily intercourse with the

leading characters of the country, that one is enabled to judge with some degree of certainty of the practices of its government; for to know the paper theory is nothing, unless it be compared with the instruments employed to carry it into effect. A political constitution may be nothing but a cabalistic form, to extract money and power from the people; but then the jugglers must be in the dark, and "no admittance behind the curtain." This way of living affords too the best insight into the best part of society; for if in a free nation the depositaries of the public confidence be ignorant, or vulgar, it is a very fruitless search to look for the opposite qualities in those they represent; whereas, if these be well informed in mind and manners, it proves at the least an inclination towards knowledge and refinement, in the general mass of citizens by whom they are selected. My own experience obliges me to a favourable verdict in this particular. I found the little circle into which I had happily fallen, full of good sense and good humour, and never quitted it without feeling myself a gainer on the score, either of useful information or of social enjoyment.' *Hall*, p. 329–331.

In page 252, Mr Hall pays some very handsome compliments to the gallantry, high feeling, and humanity of the American troops. Such passages reflect the highest honour upon Mr Hall. They are full of courage as well as kindness; and will never be forgiven.

Literature the Americans have none—no native literature, we mean. It is all imported. They had a Franklin, indeed; and may afford to live for half a century on his fame. There is, or was, a Mr Dwight, who wrote some poems; and his baptismal name was Timothy. There is also a small account of Virginia by Jefferson, and an Epic by Joel Barlow—and some pieces of pleasantry by Mr Irving. But why should the Americans write books, when a six weeks' passage brings them, in their own tongue, our sense, science and genius, in bales and hogsheads? Prairies, steam-boats, grist-mills, are their natural objects for centuries to come. Then, when they have got to the Pacific Ocean—epic poems, plays, pleasures of memory, and all the elegant gratifications of an antient people who have tamed the wild earth, and set down to amuse themselves. —This is the natural march of human affairs.

The Americans, at least in the old States, are a very religious people: But there is no sect there which enjoys the satisfaction of excluding others from civil offices; nor does any denomination of Christians take for their support a tenth of produce. Their clergy, however, are respectable, respected, and possess no small share of influence. The places of worship in Philadelphia in 1810, were as follows—Presbyterian, 8; Episcopalian, 4; Methodists, 5; Catholic, 4; Baptist, 5; Quakers, 4; Fighting Quakers, 1

Lutheran, 3; Calvinist, 3; Jews, 2; Universalists, 1; Swedish Lutheran, 1; Moravian, 1; Congrelaticosualists, 1; Unitarians, 1; Covenanters, 1; Black Baptists, 1; Black Episcopalians, 1; Black Methodists, 2. The Methodists, Mr Palmer tells us, are becoming the most numerous sect in the United States.

Mr Fearon gives us this account of the state of religion at New York.

'Upon this interesting topic I would repeat, what indeed you are already acquainted with, that *legally* there is the most unlimited liberty. There is no state religion, and no government prosecution of individuals for conscience sake. Whether those halcyon days, which I think would attend a similar state of things in England, are in existence here, must be left for future observation. There are five Dutch Reformed churches; six Presbyterian; three Associated Reformed ditto; one Associated Presbyterian; one Reformed ditto; five Methodist; two ditto *for blacks;* one German Reformed; one Evangelical Lutheran; one Moravian; four Trinitarian Baptist; one Universalist; two Catholic; three Quaker; eight Episcopalian; one Jews' Synagogue; and to this I would add a small Meeting which is but little known, at which the priest is dispensed with, every member following what they call the apostolic plan of instructing each other, and "building one another up in their most holy faith." The Presbyterian and Episcopalian, or Church of England sects, take the precedence in numbers and in respectability. Their ministers receive from two to eight thousand dollars per annum. All the churches are well filled: they are the fashionable places for *display;* and the sermons and talents of the minister offer never-ending subjects of interest when social converse has been exhausted upon the bad conduct and inferior nature of *niggars*, (negroes); the price of flour at Liverpool; the capture of the *Guerrière;* and the battle of New Orleans. The perfect equality of all sects seems to have deadened party feeling: controversy is but little known.' *Fearon*, p. 45, 46.

The absence of controversy, Mr Fearon seems to imagine, has produced indifference; and he heaves a sigh to the memory of departed oppression. 'Can it be possible (he asks) that 'the non-existence of religious oppression has lessened religious 'knowledge, and made men superstitiously dependent upon 'outward form, instead of internal purity?' To which question, (a singular one from an enlightened man like Mr Fearon), we answer, that the absence of religious oppression has not lessened religious knowledge, but theological animosity; and made men more dependent upon pious actions, and less upon useless and unintelligible wrangling. *

* Mr Fearon mentions a religious Lottery for building a Presby-

The great curse of America is the institution of Slavery—of itself far more than the foulest blot upon their national character, and an evil which counterbalances all the excisemen, licensers, and tax-gatherers of England. No virtuous man ought to trust his own character, or the character of his children, to the demoralizing effects produced by commanding slaves. Justice, gentleness, pity, and humility, soon give way before them. Conscience suspends its functions. The love of command—the impatience of restraint, get the better of every other feeling; and cruelty has no other limit than fear.

"There must doubtless" (says Mr Jefferson), "be an unhappy influence on the manners of the people, produced by the existence of slavery among us. The whole commerce between master and slave, is a perpetual exercise of the most boisterous passions; the most unremitting despotism on the one part, and degrading submissions on the other. Our children see this, and learn to imitate it; for man is an imitative animal. The parent storms, the child looks on, catches the lineaments of wrath, puts on the same airs in the circle of smaller slaves, gives loose to the worst of passions; and thus nursed, educated, and daily exercised in tyranny, cannot but be stamped by it with odious peculiarities. The man must be a prodigy who can retain his morals and manners undepraved by such circumstances." Notes, p. 241.—*Hall*, p. 459.

The following picture of a slave song is quoted by Mr Hall from the Letters on Virginia.

"I took the boat this morning, and crossed the ferry over to Portsmouth, the small town which I told you is opposite to this place. It was court day, and a large crowd of people was gathered about the door of the court-house. I had hardly got upon the steps to look in, when my ears were assailed by the voice of singing; and turning round to discover from what quarter it came, I saw a group of about thirty negroes, of different sizes and ages, following a rough-looking white man, who sat carelessly lolling in his sulkey. They had just turned round the corner, and were coming up the main street to pass by the spot where I stood, on their way out of town. As they came nearer, I saw some of them loaded with chains to prevent their escape; while others had hold of each other's hands, strongly grasped, as if to support themselves in their affliction. I particularly noticed a poor mother, with an infant sucking at her breast as she walked along, while two small children had hold of her apron on either side, almost running to keep up with the rest. They

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terian church. What will Mr Littleton say to this? he is hardly prepared, we suspect, for this union of Calvin and the Little Go. Every advantage will be made of it by the wit and eloquence of his fiscal opponent;—Nor will it pass unheeded by Mr Bish.

came along singing a little wild hymn, of sweet and mournful melody, flying, by a divine instinct of the heart, to the consolation of religion, the last refuge of the unhappy, to support them in their distress. The sulkey now stopped before the tavern, at a little distance beyond the court-house, and the driver got out. "My dear Sir" (said I, to a person who stood near me), "can you tell me what these poor people have been doing? What is their crime? and what is to be their punishment?" "O" (said he), "it's nothing at all, but a parcel of negroes sold to Carolina; and that man is their driver, who has bought them." "But what have they done, that they should be sold into banishment?" "Done" (said he), "nothing at all that I know of; their masters wanted money, I suppose, and these drivers give good prices." Here the driver having supplied himself with brandy, and his horse with water (the poor negroes of course wanted nothing), stepped into his chair again, cracked his whip, and drove on, while the miserable exiles followed in funeral procession behind him."—*Hall*, 358—360.

The law by which slaves are governed in the Carolinas is a provincial law as old as 1740, but made perpetual in 1783. By this law it is enacted, that every negro shall be presumed a slave, unless the contrary appear. The 9th clause allows two justices of the peace and three freeholders, power to put them to any manner of death: The evidence against them may be without oath.—No slave is to traffic on his own account.—Any person murdering a slave is to pay 100*l.*—or 14*l.* if he cuts out the tongue of a slave.—Any white man meeting seven slaves together on an highroad, may give them twenty lashes each.—No man must teach a slave to write, under penalty of 100*l.* currency. We have Mr Hall's authority for the existence and enforcement of this law at the present day. Mr Fearon has recorded some facts still more instructive.

'Observing a great many coloured people, particularly females, in these boats, I concluded that they were emigrants, who had proceeded thus far on their route towards a settlement. The fact proved to be, that fourteen of the flats were freighted with human beings for sale. They had been collected in the several States by slave-dealers, and shipped from Kentucky for a market. They were dressed up to the best advantage, on the same principle that jockeys do horses upon sale. The following is a specimen of advertisements on this subject.

"TWENTY DOLLARS REWARD

"Will be paid for apprehending and lodging in jail, or delivering to the subscriber, the following slaves, belonging to JOSEPH IRVIN, of *Iberville*.—TOM, a very light Mulatto, blue eyes, 5 feet 10 inches high, appears to be about 35 years of age; an artful fellow—can read and write, and *preaches* occasionally.—CHARLOTTE, a black wench, round and full faced, tall, straight, and likely—about 25

years of age, and wife of the above named Tom.—These slaves decamped from their owner's plantation, on the night of the 14th September inst." *Fearon*, p. 270.

'The three "African churches," as they are called, are for all those native Americans who are black, or have any shade of colour darker than white. These persons, though many of them are possessed of the rights of citizenship, are not admitted into the churches which are visited by whites. There exists a penal law, deeply written in the *minds* of the whole white population, which subjects their coloured fellow-citizens to unconditional contumely and never-ceasing insult. No respectability, however unquestionable,—no property, however large,—no character, however unblemished, will gain a man, whose body is (in American estimation) *cursed* with even a twentieth portion of the blood of his African ancestry, admission into society!!! They are considered as mere Pariahs—as outcasts and vagrants upon the face of the earth! I make no reflection upon these things, but leave the facts for your consideration.'—*Ibid.* p. 168, 169.

That such feelings and such practices should exist among men who know the value of liberty, and profess to understand its principles, is the consummation of wickedness. Every American who loves his country, should dedicate his whole life, and every faculty of his soul, to efface this foul stain from its character. If nations rank according to their wisdom and their virtue, what right has the American, a scourger and murderer of slaves, to compare himself with the least and lowest of the European nations?—much more with this great and humane country, where the greatest lord dare not lay a finger upon the meanest peasant? What is freedom, where all are not free? where the greatest of God's blessings is limited, with impious caprice, to the colour of the body? And these are the men who taunt the English with their corrupt Parliament, with their buying and selling votes. Let the world judge which is the most liable to censure—We who, in the midst of our rottenness, have torn off the manacles of slaves all over the world; —or they who, with their idle purity, and useless perfection, have remained mute and careless, while groans echoed and whips clank'd round the very walls of their spotless Congress. We wish well to America—we rejoice in her prosperity—and are delighted to resist the absurd impertinence with which the character of her people is often treated in this country: But the existence of slavery in America is an atrocious crime, with which no measures can be kept—for which her situation affords no sort of apology—which makes liberty itself distrusted, and the boast of it disgusting.

As for Emigration, every man, of course, must determine for himself. A carpenter under 30 years of age, who finds himself

at Cincinnati with an axe over his shoulder, and ten pounds in his pocket, will get rich in America, if the change of climate does not kill him. So will a farmer who emigrates early with some capital. But any person with tolerable prosperity here, had better remain where he is. There are considerable evils, no doubt, in England: But it would be madness not to admit, that it is, upon the whole, a very happy country,—and we are much mistaken if the next 20 years will not bring with it a great deal of internal improvement. The country has long been groaning under the evils of the greatest foreign war we were ever engaged in; and we are just beginning to look again into our home affairs. Political economy has made an astonishing progress since they were last investigated; and every Session of Parliament brushes off some of the cobwebs and dust of our ancestors. * The Apprentice Laws have been swept away; the absurd nonsense of the Usury Laws will probably soon follow; Public Education and Saving Banks have been the invention of these last ten years; and the strong fortress of Bigotry has been rudely assailed. Then, with all its defects, we have a Parliament of inestimable value. If there be a place in any country where 500 well educated men can meet together and talk with impunity of public affairs, and if what they say is published, that country must improve. It is not pleasant to emigrate into a country of changes and revolution, the size and integrity of whose empire no man can predict. The Americans are a very sensible, reflecting people, and have conducted their affairs extremely well; but it is scarcely possible to conceive that such an empire should very long remain undivided, or that the dwellers on the Columbia should have common interest with the navigators of the Hudson and the Delaware.

England is, to be sure, a very expensive country; but a million of millions has been expended in making it habitable and comfortable; and this is a constant source of revenue, or, what is the same thing, a constant diminution of expense to every man living in it. The price an Englishman pays for a turnpike road is not equal to the tenth part of what the delay would cost him without a turnpike. The New River Company brings water to every inhabitant of London at an infinitely less price than he

* In a scarcity which occurred little more than 20 years ago, every judge, (except the Lord Chancellor, then Justice of the Common Pleas, and Serjeant Remington), when they charged the Grand Jury, attributed the scarcity to the combinations of the farmers; and complained of it as a very serious evil. Such doctrines would not now be tolerated in the mouth of a schoolboy.

could dip for it out of the Thames. No country, in fact, is so expensive as one which human beings are just beginning to inhabit;—where there are no roads, no bridges, no skill, no help, no combination of powers, and no force of capital.

How, too, can any man take upon himself to say, that he is so indifferent to his country that he will not begin to love it intensely, when he is 5000 or 6000 miles from it? And what a dreadful disease Nostalgia must be on the banks of the Missouri! Severe and painful poverty will drive us all anywhere: But a wise man should be quite sure he has so irresistible a plea, before he ventures on the Great or the Little Wabash. He should be quite sure that he does not go there from ill temper—or to be pitied—or to be regretted—or from ignorance of what is to happen to him—or because he is a poet—But because he has not enough to eat here, and is sure of abundance where he is going.

ART. VII. 1. *Rapport presenté à S. M. l'Empereur* ALEXANDRE, *par S. E. M.* LE COMTE DE CAPO D'ISTRIA, *sur les Etablissemens de M.* DE FELLENBERG *à Hofwyl, en Octobre* 1814. 8vo. Paschoud. Genève et Paris. 1814.

2. *Rapport sur l'Institut d'Education des Pauvres d'Hofwyl; redigé par M. A.* RENGGER, *ci-devant Ministre de l'Interieur de la Republique Helvetique, au Nom de la Commission etablie pour l'Inspection de l'Etablissement.* 8vo. Paschoud. Genève et Paris. 1814.

3. *Lettre de M. Ch.* PICTET *à ses Collaborateurs de la Bibliothéque Britannique sur les Etablissemens de M.* FELLENBERG, *et specialement sur l'Ecole des Pauvres à Hofwyl.* 8vo. 1812. Mêmes Libraires.

4. *Lettre de M.* GAUTHERON *à M. Ch.* PICTET *de Genève, sur la Fête celebré à Hofwyl le* 23 *Mai* 1807. *Tirée de la Bibliothéque Britannique, No.* 292, *de la Partie Agriculture.* 1808. Mêmes Libraires.

5. *Vues relatives à l'Agriculture de la Suisse, et aux Moyens de la perfectionner, par* EMANUEL FELLEMBERG.* *Traduit de l'Allemand par Ch.* PICTET. 8vo. 1808. Mêmes Libraires.

THE Institution to which these publications relate, though long famous on the Continent, has just begun to attract

* The name is Fellenberg: and so it is spelt in most of these tracts. This change is a Gallicism, and one of the most inexcuseable of any. Why will the French always change proper names, and on purpose?

notice in this country, in consequence of Mr Brougham's account of it in his evidence before the Education Committee, which is contained in the Third Report for 1818. At a time indeed when all men's minds are turned towards the great questions connected with the character and support of the Poor, with Universal Education and the Poor Laws, there is nothing more natural than that the first intimation of Mr Fellenberg's plans should powerfully interest the thinking part of the community. We have therefore deemed it right to procure the works referred to in Mr Brougham's evidence, as containing a complete account of the Establishment, together with one or two others; and we hasten to lay a statement of the most important particulars contained in them before our readers. We may premise, that the public is chiefly indebted to Mr Charles Pictet of Geneva for the access which these tracts afford to a knowledge of Hofwyl. Beside the pamphlets which bear his name, he appears (Mr B.'s Evidence, Rep. 184) to be also the author of the work published as the Count of Capo d'Istria's, and admitted to give the most full information of any.

Mr Fellenberg is the head of a most respectable patrician family of the canton of Berne; and possesses, about four miles from the city, an hereditary estate, sufficiently large for one of his station in that simple and frugal country; though trifling, indeed, if compared either with the domains of nobles in wealthier states, or with the great things which he has effected by the judicious disposition of it. His income is said not to exceed five hundred a year, were the property managed in the usual way. The land forms part of a beautiful plain surrounded by hills and interspersed with woods. The house and pleasure grounds are agreeably situated in the middle of the farms. Being naturally of a retired and contemplative disposition, fond of study, and peculiarly attached to agricultural pursuits, he early in life devoted himself to the praiseworthy objects of improving his estate by his own industry, and of making this occupation subservient also to the improvement of the poor in his neighbourhood. It is above twenty years since he first formed the plan, which in its completest execution now astonishes all who visit Hofwyl; but it has not been in full action above ten. In what follows, we must be understood as only giving a very general sketch of it. The distinguishing excellence of Mr Fellenberg's operations consists in the practical details which comprise an infinite variety of ingenious methods for economizing his resources, and gaining his ends by sure means. To enter fully into these, would exceed the bounds of this article; and indeed, it may be fairly questioned, if any description could

enable the reader, who had not been upon the spot, to form an adequate idea of the various processes.

The principal part of the Establishment, and that which forms the groundwork of the whole, is a farm of about 220 acres, which Mr Fellenberg has improved with great success, and continues to cultivate himself. It is here that the poor children are employed, to the number of between thirty and forty; and this may be said to be the branch to which all the others are more or less subordinate, and with which they have all some connexion. Those other banches are, an Academy for the sons of wealthier persons; an Agricultural Institute, connected with a small experimental farm; and a Manufactory of farming machinery and implements.

The Academy consists of fifty or sixty pupils, chiefly of patrician families; and when Mr Brougham was there, he found seven or eight German princes among them, besides several young nobles of that nation. These boys are taught every branch of elegant and of useful learning, by the most eminent professors,—to obtain whose assistance, neither pains nor expense is spared. There are said to be about twenty of them, with salaries amounting to 2000 or 3000*l.* a year. The method of Professor Herbert, of beginning with Greek, and then proceeding to Latin, has been adopted with singular success. 'The rapid progress of the children,' says Mr Pictet, 'and the pleasure which they take in reading Homer, appears to justify this improvement.' In teaching the sciences, considerable aid is derived from the method of Pestalozzi, which consists in exercising the reasoning faculties more than is done by the ordinary plan of instruction, and in making the process of learning much less a matter of rote. The extreme rigour of Pestalozzi's plan, however, is avoided;—this resolves itself indeed into a banishment of all books from the school, and an exclusive reliance upon explanation and examination in the teacher's presence. Musick is taught, both theoretically and, to those who have a taste for it, practically. Gymnastic exercises, including the use of arms, carpentry and gardening, are added, rather as means of filling up the hours of relaxation; and, among other useful objects, little, if at all attended to elsewhere, care is taken to give by practice a just knowledge of bearings and distances, and every thing which is comprised in the phrase of *coup-d'œil.* The professors are described as eminent men in their several lines of study; and their moral character, as well as manners, are most particularly attended to in the appointments. Mr Pictet says, that the manifest harmony which reigns among them, and between master and pupil, are the best proofs that Mr Fellenberg

has succeeded in his selection. The character, the temper, and the habits of the young people, are the paramount object of the superintendence exercised sedulously over them at every moment of time, but so as never to oppress or annoy. The methods of preserving this watchful attention, and at the same time leaving the pupil free from any sense of restraint, are among those processes which no description can adequately represent. The great principle seems to be, an appeal to the well known force of habit, and a judicious variation of the pursuits and studies, united with a never-failing gentleness, and serenity of temper in the instructor and guardian. Care is also taken to admit new pupils only when all those upon the establishment are completely trained to the industrious and innocent pursuits of the place; so that this foundation being once laid, the labour of correcting the bad habits of the new-comers is greatly abridged; they fall more easily into the manners of their companions. The following is the testimony borne by a very accurate and unprejudiced observer; one indeed whose original prepossessions, or at least doubts, were all unfavourable to Mr Fellenberg's design.

'On n'emploie dans l'institut aucun des moyens ordinaires d'encouragement et de repression. Il n'y a ni premier ni dernier, ni prix ni médailles, ni châtimens humilians. Une récapitulation faite le samedi soir, en présence des élèves, par le professeur qui ne les quitte jamais, remplace les mobiles ordinaires d'émulation et de crainte. Mr Fellenberg y assiste. Dans cette séance, on reprend tous les motifs d'éloge ou de blâme pour chacun pendant la semaine. Le ton ferme et doux du professeur, le sentiment tout paternel qui inspire les remontrances et les exhortations, font une grande impression sur les élèves. Le redoublement des tâches pendant les heures destinées aux amusemens, est la seule punition qu'on emploie pour entretenir l'activité du travail. Tous les petits traits qui tiennent au caractère, et qui sont des occasions de louange ou de reprimande, trouvent leur place dans cette récapitulation. Les enfans se justifient avec liberté. On les écoute avec patience, et on les reprend avec douceur. Ils ne cédent point à l'autorité, mais à la confiance, à l'affection, à l'ascendant de la vérité, à l'opinion de leurs camarades, dont la direction est toujours bonne, parce que cette opinion est formée des élémens les plus sains.

'Une régle invariable dans la distribution du temps, dans tous les détails de la vie, rendent inutiles les moyens nécessaires ailleurs pour contraindre ou réprimer. Les enfans se sentent libres, parce qu'ils n'obéissent qu'à la force des choses, et que le caprice ne les atteint point. Sans jamais ressentir la gêne, ils éprouvent tous les bons effets de l'ordre, et en prennent le goût et l'habitude. Ils sont confians, ouverts, gais, heureux, car ils se sentent aimés. Quand ils font des sottises de leur âge, ils sont d'ordinaire les premiers à s'en accuser;

car un aveu libre, toujours reçu par l'affection et l'indulgence, affranchit l'enfant du tourment d'être mal avec lui-même et avec ses camarades.

' La petite famille n'a d'esprit de corps que pour le bien. Les élèves tiennent ensemble lorsqu'il s'agit de corriger un vice ou un défaut, de réparer un tort de l'un d'eux : pour le justifier, jamais. Cette conscience de tous est due au sentiment religieux qu'on s'attache à leur rendre habituel, par l'exemple, la réflexion et la prière ; et cette disposition à seconder les maitres dans la tâche de l'éducation, au lieu de faire ligue contr'eux, est le résultat de la conviction que le père qui les adoptés, et ses aides, n'ont rien tant à cœur que de les rendre bons et heureux.

' Il n'y a peut-être aucun institut d'éducation dans lequel on sache allier autant d'amusemens au travail, autant de liberté à la régle, et où les élèves aient plus d'occasions de se préparer à l'usage du monde par l'exemple des manières décentes et polies. La maison de Mr Fellenberg en est un modèle. Les élèves sont admis quelquefois dans des familles de Berne alliées ou amies, et distinguées par le meilleur ton. L'abord des étrangers est continuel ; ils viennent de tous les pays, et l'on peut dire que les jeunes gens qui habitent Hofwyl voyagent sans changer de place. Enfin les professeurs attachés aux instituts, et quelques-uns des maîtres, sont un fonds de société de la plus grande ressource, qui concourt à retenir les étrangers que la curiosité a attirés.' *Lettre de Pictet*, p. 12–15.

The sum paid for this most excellent and complete course of education, rising from the elements of grammar to the highest branches of mathematical and physical science, is only sixty pounds a year, which covers every expense, except that of clothes. The pupils eat at Mr Fellenberg's table, which is plentiful, yet simple; they are all treated in precisely the same manner, whatever be their rank; no sect is excluded, nor any nation,—except that we believe Mr F. very reluctantly admits French children,—not so much, in all probability, from any prejudices of his own, as from the necessity of yielding to those of his country, which, upon this matter, are as universal and as strong, as we must allow them to be natural and blameless. His disinterested and liberal spirit may be seen from the anecdote related of him, that when, during the troubles in Germany, and the ruin of several families whose children were under his care, no remittances could be expected for their support, he maintained and educated about a dozen of them for nothing, until, contrary to all probability, a change of fortune enabled them once more to perform the very easy conditions imposed upon the richer classes by the rules of the Establishment.

The Agricultural Institution consists of about twenty young gentlemen, more advanced in years, who have constant access to

the farm, as well as to the experimental farm, of about nine acres, attached to this branch of the Establishment. They are instructed also in the book-learning of the subject, and of the arts and sciences immediately connected with it. They assist at daily conferences upon the new methods to be employed,—the improvements of machinery,—in short, every thing that usually occupies an agricultural society; with this great difference, that they are on the spot, where every position may be brought to the test of actual experiment, and are surrounded by practical agriculturists, makers of farming implements, and operations on various scales constantly going on. These pupils pay about seventy pounds a year for all expenses, and live at a chateau about half a mile from the principal residence where Mr Fellenberg and the boys are, and where the laboratory, cabinets of natural history, and apparatus of natural philosophy, are also fixed.

The Manufactory of machinery and implements consists of two branches; one of common husbandry tools, as well as of those improved at Hofwyl; the other intended to carry on improvements in this essential article. The former furnishes a profit which defrays the expenses of the latter; for it not only supplies the farms, but leaves a surplus of machinery and tools for sale; it also instructs both the pupils of the Academy in the handicraft arts, the pupils of the Institution in those connected with agriculture, and the poor boys in the trades of blacksmith and wheelwright, which may in after life afford them a livelihood. At the experimental manufactory, great progress has been made. Mr Fellenberg early remarked, that the important object of improving agricultural machinery had never been pursued diligently and systematically: it was equally plain, that this could nowhere be accomplished with such advantages as in the neighbourhood of great farming operations and experiments, which might naturally suggest constant hints to the manufacturer, as well as receive the greatest benefit from his assistance. This rational plan has been attended with deserved success. Many valuable improvements have been made in machinery. Among others Mr Brougham mentions, with praise, a new horse-hoe and scarifier; and the Hofwyl drill-plough has received the commendations of the Board of Agriculture.

The most interesting branch, however, of this Establishment, is that which provides for the Education of the Poor. The principles upon which it is conducted, are unquestionably sound;—for they are founded in a perfect knowledge of human nature. That they will by some persons be thought chimerical, is equally unquestionable; because their application to practice

has been pushed a great deal further than necessity prescribes, and because Mr Fellenberg, operating upon a small scale, has been enabled to do much more for the objects of his care and bounty than will ever be attempted in an extensive concern. Yet we will venture to assert, that the basis of his plan is perfectly practical; and that his success clearly demonstrates the possibility of carrying his principles into effect in any required degree. The children upon whom his trials have been made, were taken from the worst classes of society:—all accounts agree in stating, that they have been thoroughly reformed, and brought to an eminent degree of excellence, in every respect,—while their labour has been all the while made a source of profit. This statement of the result is sufficient to justify us for giving a detailed account of the principles upon which their reformation has been carried on: And we cannot do this better, or more concisely, than by referring to Mr Brougham's evidence before the Education Committee.

'The branch of the establishment, however, which is more particularly deserving of attention, and with which all the others are more or less connected, is the seminary for the Poor. Mr F. having long remarked the extreme profligacy of the lowest orders in the Swiss towns, and the habits of ignorance and vice in which their children were brought up, formed, many years ago, the design of attempting their reformation, upon principles equally sound and benevolent. His leading doctrine was, that to make those poor people better, it was necessary to make them more comfortable; and that this end would be best attained by forming, in their earliest years, habits of industry, which might contribute to their subsistence, and by joining with them a greater degree of intellectual cultivation than has ever yet been extended to the labouring classes of the community, or been imagined to be compatible with their humble pursuits. He began his experiments upon a small number of children, which he has now increased to between thirty and forty; and this may be reckoned the utmost limit upon a farm of so moderate an extent. Those children were taken from the very worst description of society—the most degraded of the mendicant poor in Berne and other Swiss towns. With hardly any exception, they were sunk in the vicious and idle habits of their parents, a class of dissolute vagrants, resembling the worst kind of gipsies. The complete change that has been effected in them all, is one of the most extraordinary and affecting sights that can be imagined. When I saw them, there were some who had been there for several years, and had grown up towards manhood; but the reformation in almost all took place during from one to two years, or a very little more, according as they were taken at an earlier or a more advanced age. The remark which I made, is that which immediately strikes all who visit Hofwyl;—the appearance of the children alone, their countenance and manner,

impresses you with a conviction of their excellent dispositions. To describe all the steps of the process by which this reformation has been effected, would be impossible, as much depends on minute circumstances, and upon the great skill and judgment of Vehrli, a young man, who has devoted his life, under Mr Fellenberg, to the superintendence of this part of the establishment, and to whose extraordinary virtue and ability its success is principally owing. But I shall endeavour to give the Committee some idea of the mode of treatment pursued.

'The first principle of the system is to show the children gentleness and kindness, so as to win their affections, and always to treat them as rational creatures, cultivating their reason, and appealing to it. It is equally essential to impress upon their minds the necessity of industrious and virtuous conduct to their happiness, and the inevitable effects of the opposite behaviour, in reducing them from the comfort in which they now live to the state of misery from which they were rescued. A constant and even minute superintendence, at every instant of their lives, forms of course part of the system; and, as may easily be supposed, the elder boys, who have already profited by the care of the master, aid him in extending it to the new comers, who for this purpose are judiciously distributed among them. These are, I am aware, very general principles; and upon their judicious application to practice in each particular instance, according to the diversities of individual character, their whole virtue depends. But a somewhat more specific notion of the plan may be formed by observing, that it is never allowed for a moment to be absent from their thoughts, that manual labour, in cultivating the ground, is the grand and paramount care which must employ their whole lives, and upon which their very existence depends. To this every thing else is made subordinate; but with this are judiciously connected a variety of intellectual pursuits. At their hours of relaxation, their amusements have an instructive tendency; certain hours are set apart for the purposes of learning; and while at work in the fields, the conversation, without interrupting for a moment the necessary business of their lives, is always directed towards those branches of knowledge in which they are improving themselves during the intervals of labour. Beside writing and ciphering (at which they are very expert) they apply themselves to geography and history, and to the different branches of natural history, particularly mineralogy and botany, in which they take a singular delight, and are considerable proficients. The connexion of these with agriculture, render them most appropriate studies for those poor children; and as their daily labour brings them constantly into contact with the objects of those sciences, a double relish is thus afforded at once to the science and the labour. You may see one of them every now and then stepping aside from the furrow where several of them have been working, to deposit a specimen, or a plant, for his little hortus siccus, or cabinet; and Mr Fellenberg rarely goes into the field where any of them are labouring, without

being called upon to decide some controversy that has arisen upon matters relating to mineralogy or botany, or the parts of chemical science which have most immediate relation to agriculture. There is one other subject which is ever present to their minds; I mean a pure and rational theology. Mr F. is deeply imbued himself with the sense of religion; and it enters into all his schemes for the improvement of society. Regarding the state of misery in which the poorest classes live, as rather calculated (if I may use his own expression) to make them believe in the agency of a devil than of a God, his first care, upon rescuing those children from that wretchedness, is to inspire them with the feelings of devotion which he himself warmly entertains, and which he regards as natural to the human heart, when misery has not chilled nor vice hardened it. Accordingly the conversation, as well as the habits of the poor at Hofwyl, partake largely of religious influence. The evidences of design observable in the operations of nature, and the benevolent tendency of those operations in the great majority of instances, form constant topics of discourse in their studies, and during the labours of the day; and though no one has ever observed the slightest appearance of fanaticism or of superstition (against which, in truth, the course of instruction pursued is the surest safeguard) yet ample testimony is borne by all travellers to the prevailing piety of the place. One of these has noted an affecting instance of it, when the harvest once required the labourers to work for an hour or two after night-fall, and the full moon rose in extraordinary beauty over the magnificent mountains that surround the plain of Hofwyl. Suddenly, as if with one accord, the poor children began to chant a hymn which they had learnt among many others, but in which the Supreme Being is adored as having "lighted up the great lamp of the night, and projected it in the firmament." ' *Report*, p. 195, 196.

To this testimony we shall add that of another eyewitness, Mr C. Pictet, who has followed the progress of this Institution from the beginning.

' Le soin de developper la gaité des élèves, de les maintenir sereins, alertes et actifs, est considéré comme très-important. Ils sont constamment caressés et prévenus; tout les invite à la confiance. Vehrli ne leur parle qu'en souriant. Il travaille avec eux, il lit, il cause, il chante avec eux; il leur conte des histoires, et ne les quitte dans aucun moment.

' Le travail et l'ordre, la douceur, une marche sage, égale et persévérante, triomphent de tous les obstacles moraux, de toutes les habitudes perverses. Ces enfans vagabonds, mendians, ou ramassés çà et là dans la plus profonde misère, mais accueillis et soignés avec une bonté affectueuse, instruits dans la pratique de leurs devoirs envers Dieu et envers leurs semblables, soumis à un travail continu, à une régle constante, et ne perdant pas une minute pour l'instruction, même dans leurs jeux, n'ont jamais eu besoin d'un seul châtiment pour être amenés à une conduite régulière.

'Un gagne-pain assuré dans une carrière où ils pourront mener une vie heureuse, est le legs que Mr Fellenberg prépare à ces enfans qu'il a adoptés. Il les destine à diriger des exploitations agricoles, ou seulement a faire de bons valets de campagne, selon leur degré de talent et d'activité. Leur principale occupation est donc de travailler à la terre. Tant que la saison et la température le permettent, ils sont occupés dans les champs à des ouvrages en rapport avec leur âge et leurs forces. S'il fait mauvais temps, et pendant la saison rigoureuse, ils font des ouvrages en paille, ils tricotent, ils épluchent de la laine, ils trient et séparent les légumes, les racines destinées aux bestiaux; ils s'exercent enfin aux diverses manières de se rendre utiles dans une grande exploitation.' *Lettre*, p. 19, 20.

After describing the habits of order which are carefully formed in the boys, and the exact taste for regularity and neatness which they acquire, without ever suffering their other pursuits or amusements in the least degree to interfere with it, he relates an anecdote, which serves to illustrate this.

'Mr Fellenberg, l'été dernier, passoit auprès d'un champ de colza, en tenant par la main un des petits pauvres, qui lui racontoit quelque chose avec beaucoup de vivacité. Tout-à-coup l'enfant s'interrompt, et lui échappe pour aller arracher une mauvaise herbe qu'il avoit découverte à une certaine distance, parmi le colza. Il vint ensuite reprendre le fil de sa narration, sans dire un seul mot de la chose qui l'avoit distrait.' *Lettre*, p. 21, 22.

The grand principle of this Institution is, that every thing must be kept subordinate to the main business of cultivating the ground; that whatever else can be learnt by the boys is so much clear gain; but that, before every thing, they must learn to support themselves by the labour of their hands. Of this occupation a pleasure is made, by the agreeable course of amusement and instruction with which it is combined.

'L'expérience a prouvé que sans nuire au principe qu'on leur inculque, de porter fortement leur attention sur le travail dont ils sont occupés, on peut en même temps les instruire sur un autre objet. Tout en sarclant la terre, ou en arrachant des mauvaises herbes, ils comptent à la manière de Pestalozzi, et ont ainsi appris à calculer avec facilité et promptitude. Pendant qu'ils sont occupés dans la maison, des travaux sédensaires, Vehrli leur fait des lectures prises dans des ouvrages moraux destinés aux enfans, et écrits du style le plus simple, ou bien il les interroge tour-à-tour sur le calcul, et sur d'autres objets de leur instruction, ou enfin il les fait chanter en parties des cantiques ou des chansons nationales.

'J'ai dit en parlant de l'institut des riches, que la musique entroit essentiellement dans l'instruction. Mr Fellenberg la considère comme un moyen d'éducation, comme une ressource auxiliaire précieuse pour adoucir le caractère et les passions malveillantes, pour mettre de l'harmonie entre les pensées et les sentimens, pour fortifier l'amour

de l'ordre et du beau, pour animer l'instinct qui attache l'homme à son pays, et pour élever vers le ciel son imagination et ses vœux. Tous les élèves apprennent donc la théorie de la musique, et sont exercés au chant. C'est le dimanche qu'on prend pour cette étude, ainsi que pour la lecture, l'écriture, le calcul à la plume, un peu de dessein, et de géométrie.

'Chaque matin avant le travail, chaque soir après qu'il est terminé, Vehrli cause avec les enfans, et Mr Fellenberg assiste le plus souvent à cet entretien. Le plan du travail de la journée, les avertissemens et les exhortations convenables, suivent la prière du matin. Le soir on leur fait les observations auxquelles les petits événemens de la journée ont donné lieu. On les encourage sur ce qui est digne d'éloges; on les reprend doucement sur leurs torts; on les affermit dans leurs bonnes résolutions; et la prière achève et sanctifie cet exercice salutaire.

'Quoique l'instruction positive soit, ainsi que je l'ai dit, subordonnée à la nécessité où sont ces enfans d'apprendre à gagner leur vie par le travail de leurs mains, les progrès ont été plus grands qu'on ne le croiroit possible en si peu de temps. Presque tous savent maintenant bien lire et écrire, un peu dessiner, estimer les angles, calculer de tête, et par les chiffres; chanter la note des airs simples, et tenir la mesure. Ils savent le nom, le caractère et les qualités de toutes les plantes cultivées à Hofwyl, de toutes les mauvaises herbes qui croissent dans les champs; ils connoissent également la nature des diverses pierres qu'on y trouve. Ils ont appris par cœur plus de cinquante hymnes, cantiques ou chansons nationales; plusieurs traits de l'Histoire sainte, et de l'histoire de la Suisse. Quelques-uns d'entr'eux sont exercés à rendre compte de ce qu'ils ont lû et entendu, et en entretiennent les autres.

'La gymnastique trouve aussi sa place dans leur éducation. La course, le saut, la natation, les équilibres, se succèdent dans les intervalles du travail; on les accoutume à grimper lestement sur les arbres, à faire des exercices militaires, et à marcher ensemble d'un pas réglé en chantant des airs nationaux. Rien n'égale leur gaité dans les jeux. Après avoir travaillé aux champs tout le jour, ils retrouvent leurs forces et leur agilité sur l'esplanade qui les rassemble le soir, et dans leurs bruyans ébats, lorsqu'abandonnés à eux-mêmes en toute liberté, ils se livrent à leur naturel, et parlent le langage propre à leur âge, ces mêmes enfans, dont plusieurs, en arrivant à Hofwyl, ne pouvoient pas dire une phrase sans y joindre des juremens, ne prononcent pas un mot qui soit répréhensible: tant l'exemple, et la règle les ont modifiés!' *Lettre*, p. 22–25.

The testimony borne to Mr Fellenberg's success in this truly enlightened and benevolent attempt, by the state of his accounts, is, if possible, more decisive, and may perhaps convince many whom no other evidence will influence. He shows his books freely to all visitors; to whom, indeed, every part of the esta-

blishment is open at all times. Mr C. Pictet has given the result for the year 1810, the last for which the balance was made out when he visited Hofwyl. The farm then yielded a clear gain of four per cent. upon the price of the land, reckoned at 62*l.* the acre, together with 24 per cent. upon the capital employed in cultivation. Mr Brougham states the profits, on an average of four years ending 1814, to have been above four pounds an acre, including the interest of the purchase-money paid for the land. The profits upon the cattle are kept out of this account; and also those which Mr Fellenberg derives from the dealing in horses, a source of considerable gain to him; for he generally sells them at an advance of six or seven pounds, after keeping and using them from the age of three to six.

The general opinion entertained of the plan is the last evidence of its success to which we shall resort. At first, all the neighbourhood, and particularly the Bernese government and grandees, regarded Mr Fellenberg as an enthusiast and a visionary, whose schemes would lead to his certain ruin. They began afterwards to change the mode of attack, when they saw those schemes succeeding;—they described him as a money-making person, and one who, under the appearance of benevolence, carried on plans of avarice. They generally considered the Academy as a peculiar source of profit; but, from what has been already stated, the reader may have perceived that this branch of the Establishment can do nothing more than bear its own expenses; and that, if the farming operations do not perform the rest, the whole must be in arrear. Yet every one admits that the design has in fact succeeded; that the land has been greatly improved; that marshes have been drained, and fine crops made to grow, where weeds only were seen before; that the poor labourers are bettered in condition, habits and acquirements; that everything goes on with the appearance of a flourishing and an improving concern, and that no debts are contracted, nor any difficulties of a pecuniary nature experienced. The Government have given no manner of assistance, not even countenance, to Mr Fellenberg—hardly protection. The patricians accuse him of lowering the dignity of their order, by leading what they term a *vie pedagogique* —that is, by devoting himself to the most dignified and virtuous of human pursuits, the propagation of virtue and communication of knowledge,—instead of poring over a long pedigree of ancestors with cramp names, known at Berne and nowhere else,—or moving up and down the streets of that ancient and noble town, adorned with a stiff tail, and impeded by a long sword. Every discouragement is given to him by the constituted authorities; the

existence of his Institution is studiously concealed in the journals devoted to Government, as they all are in that free State. Not even the common notice of an arrival is allowed to be inserted, if the traveller is come to visit Hofwyl, although every such incident is sedulously chronicled, if the stranger only comes to see Berne, or to pass through it; and, upon one occasion, an open and direct interference of power was used to thwart this philanthropic person's most admirable plan of improving the condition, generally, of his native country. He had observed the want of sufficient knowledge, which deprived most Swiss schoolmasters of the means of usefulness. He had therefore bethought him of a compendious method by which this defect might be supplied. It was by assembling at Hofwyl all the teachers of the canton, and maintaining and instructing them during the three months of their holidays. Being men of industrious habits, and eagerly bent upon improving themselves, they made great progress; and, on their return home, they did not fail to pursue their studies with additional advantage, after the lights received at Hofwyl. The next summer Mr Fellenberg invited them to return; but the Bernese government, strangely and unaccountably, chose to take umbrage at this assemblage, and issued a decree to prohibit any schoolmaster from resorting thither. This signal folly was fortunate in its effects for the neighbouring cantons; *they* encouraged their teachers to avail themselves of Mr F.'s invitation; and he thus had the opportunity of spreading a better system of education for all ranks through many parts of Switzerland. It is only rendering justice to the liberality and acuteness of the literary circles in Geneva, to add, that he has, from the first, been warmly encouraged by their applause; and that some of their most distinguished members have uniformly exerted themselves, strenuously to promote the success of his benevolent designs. We need only mention M. de Bonstetten, in addition to the able and enlightened author of the works now before us.

The connexion between the seminary for the poor and the academy for the upper classes, has already been mentioned generally. It consists in the pains constantly taken to inculcate upon each their relative duties towards the other. The pupils of the academy, whatever be their rank or wealth, are sedulously taught, that their first duty is to use the means which Providence has placed at their disposal, in a way likely to prove beneficial to the less fortunate members of the community. Indiscriminate charity, almsgiving, endowing hospitals, bestowing pensions, and the various other modes of benevolence which are so praiseworthy in their origin and so hurtful in their tendency,

Mr Fellenberg by no means recommends. A charity founded on rational principles, as well as proceeding from amiable feelings, is alone patronized and exemplified at Hofwyl. The real good of the poor is consulted, and not their temporary relief; the task of maintaining them, or teaching them to obtain a maintenance by industry and frugality, is prescribed to the rich, and not the momentary gratification of compassionate feelings. This charity may truly be said to bless the giver as well as the receiver; it requires only his care and attention, without diminishing his resources; and the objects of it are rendered valuable to the community, happy in themselves, and grateful to benefactors, who have made them at once industrious and independent. The poor children live quite separate from the rich; but they are daily seen by them; and the progress of their improvement and their labour is noted. The method of reclaiming and of training them is taught; and unquestionably few of Mr Fellenberg's wealthier pupils will be likely to leave his Institution, without having imbibed a strong desire to carry its principles into operation in their own country.

We cannot help expressing our earnest wish that some more practical and minute knowledge of the system were obtained by our own countrymen than any which can be gleaned from such general descriptions as books afford. The translation of some of the works of which we have prefixed the titles to this article, would be of use; and we are not without hopes, that the statements in the foregoing pages may call to the subject the attention of the public. But much remains to be learnt, after all that books can tell, of methods necessarily consisting in minute details. These can only be well understood, so as to be transferred and adopted here, by being studied daily upon the spot. For example, the admirable system of economy which prevails, and enables Mr Fellenberg to do so much with such limited means, resolves itself into an endless variety of expedients; each trifling, when viewed separately,—but all of which, taken together, constitute the method required. In like manner, the plan pursued for reforming and training the poor children, consists of various processes and methods of treatment, which can only be learnt by actually seeing their operation. The pupils from Germany are sure to carry a practical knowledge of these matters into their own country; and if the system is only adopted in one instance, that knowledge will soon spread in proportion to its manifest usefulness. It is much to be wished that some of our countrymen, whose public spirit is proportioned to their means of serving the community, would devote a season or two

of recreation from other employments, to the important and not uninteresting business of visiting Hofwyl. It appears, from Mr Brougham's evidence, that they would be most cordially welcomed by Mr Fellenberg, who offered him every accommodation, when he intended to remain there a few weeks, for the purpose of studying the system minutely. A residence, however, of five or six months, would be necessary thoroughly to understand all the details; and the sending two or three young persons to the academy, would probably be the best means of importing a knowledge of all Mr Fellenberg's improvements into this country. Such an experiment would, at all events, be safe as well as easy. If it led to no practical results in favour of the poor, or the agriculture of this nation, it would be attended with no risk nor expense to the individuals. The boys would receive, perhaps, one of the best educations that Europe affords, at a very moderate price; and the strictest regard would be paid both to their health and their morals. There is much difficulty, however, in obtaining admission for pupils; and Mr B. mentions a journey undertaken, while he was in Switzerland, by the present King and Queen * of Wirtemberg, chiefly for the purpose of prevailing upon Mr Fellenberg to take one more youth from Germany, a young person of the highest rank, under his care. But it is to be expected that he may be induced to receive one or two English pupils, of whom he has hitherto had none, in the hopes of extending to this country the knowledge of those principles, the success of which he naturally feels a very warm anxiety to promote. We may add, that as German appears to be the language spoken in the Establishment generally, any person resorting thither only for a few months, to examine the methods used, will do well to make himself master of it first: but if boys are sent over, they will of course very soon learn it sufficiently to follow the routine of instruction.

In this article we have given our opinion as it really is, very much in favour of the principles upon which Mr Fellenberg proceeds. We deem them to be just and rational in themselves;—and in their application, we perceive, by the evidence of facts, that they have been practically successful. At the same time, we by no means intend to assert, that an attempt should all at once be made to carry them into effect upon a large scale; especially in populous, and, above all, in manufacturing and commercial districts, where their adoption must needs be limited, by various circumstances that do not enter into the calculations at Hofwyl.

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* Formerly Grand Dutchess of Oldenberg, and sister of the Emperor Alexander.

All we desire is to see the *principles*, which are unquestionably both just and practical, received as they deserve, and applied with the necessary variations prescribed by diversities of situation. It may not be possible to effect—it may not be desirable to attempt—doing as much for the poor on a large, as Mr Fellenberg has done upon a small scale: But he has clearly shown how much may be performed for their improvement, not only without extravagant cost, but with a profit exactly proportioned to the benefit bestowed upon the objects of his care.

ART. VIII. *Plan of Parliamentary Reform, in the Form of a Catechism; with Reasons for each Article: With an Introduction, showing the Necessity of Radical, and the Inadequacy of Moderate Reform.* By JEREMY BENTHAM, Esq. 8vo. pp. . London. R. Hunter, 1817.

DISPUTES concerning the right of suffrage were longer unknown, and have formed a more inconsiderable subject of political discussion in England, than in any other Free State. In governments altogether republican, the right of choosing lawgivers, or of making laws, and the distribution of political privileges among various Magistrates and Councils, form the principal subject of contest between the several orders which compose the Commonwealth. But in England, which Montesquieu called 'a Republic disguised as a Monarchy,' these contests were prevented, by the general jealousy directed against the dangerous, though necessary power of the Crown. The peculiar nature of our Constitution for a long time engaged the whole force of the Friends of Liberty in struggles against an enemy of a singular kind, whom it was necessary always to watch, very often to resist, and yet never to destroy.—From Henry III. to George III. the grand question depending between the Crown and the People, has continued to be, whether the Government should be Parliamentary, or administered according to the judgment of one or more individuals, not amenable to justice, and often not answerable to public opinion, for their counsels and measures?—This question is, in other words, whether Montesquieu's description of our constitution be just,—whether it is to be administered on the principles of Popular Government, or according to the maxims of an uncontrolled Monarchy? The dispute, indeed, has assumed various forms. Sometimes the very being of Parliaments was threatened; the Crown sometimes encroached on their legislative power, but more frequently sought

for pecuniary resources independent of parliamentary grant.—These contests were, however, occasional: But one regal pretension never ceased; the kings of England always endeavoured to maintain their right to follow their own judgment, or that of private advisers, in the choice of ministers and measures; whilst the Parliament, seconded by the People, with equal constancy maintained that the prerogatives of the Crown, both in the choice of its servants, and in every other public act, was to be exercised by the advice of the Great Council which conveyed to the Throne the deliberate opinion of the Nation. This question arose in the most ancient times of our government. It was agitated for ages before those extravagant doctrines of Divine Right, Passive Obedience, and Indefeasible Inheritance, which flourished under the House of Stuart.

The original dispute has survived these absurdities. It now forms the indelible distinction between Whigs and Tories, and must continue to keep up similar parties as long as the British Constitution exists. In the course of this contest, the power of the Purse was the only pacific means, by which the House of Commons could establish or defend their authority as lawgivers, and their weight as counsellors of the Crown: and hence it has arisen that almost all our great disputes have immediately turned upon questions of pecuniary supply. On this ground, all the battles of Liberty have been fought, from the grant of the Great Charter to the declaration of American Independence.

It was not till after the victory of the Parliament over Charles the First, that symptoms of dissatisfaction with the constitution of the House of Commons began to manifest themselves. Complaints of the state of the representation, and projects for its amendment, were then employed by the agitators of the Parliamentary Army as a means of depriving the House of Commons of the popularity which was its main security against the Military Body.—It was on the 20th of January 1649, a few days before the death of the King, that the first plan of Parliamentary Reform was laid before the House of Commons, by some officers of the army, under the alluring title of 'An Agreement of the People.' It was composed by General Ireton, a memorable person, of eminent capacity for civil as well as military affairs, and who did not declare for a republic until he was persuaded that Charles had no intention but 'to regain by art what he had lost in fight.'*—In this paper it was proposed that the Commonwealth should be governed by a Re-

* Hutchinson, 293.—For his determination to resist the ambition of his father-in-law, Cromwell, see the same excellent work, 325.

presentative Assembly of four hundred persons, biennially elected, by all housekeepers assessed to the poor—not being servants or receiving wages. The smaller boroughs (with some capricious exceptions) were to be thrown into the counties. The cities and more considerable towns, together with the unrepresented towns of Manchester and Leeds, were to have separate representatives.

This was the first plan of Moderate reform:—and it was speedily succeeded by one of a different description. On the 1st of May 1649, the Levellers, who were charged with designs for equalizing property, published, but did not present to Parliament, *their* scheme of Parliamentary Reform, by which 'all men of the age of twenty-one years, not receiving alms or being servants, were, *according to natural* right, to have a voice in the election of Members of a Parliament to be annually chosen.' Thus arose the two systems; of which, the latter is the Radical Reform of our times, and the former proposes the most extensive of those changes, which are now comprehended under the name of Moderate Reform.

After the defeat of the revolts which followed the manifesto of the Levellers, the execution of their ringleaders, and the imprisonment of Overton and Lillburne, their project was speedily disregarded, and soon totally forgotten. The plan of Ireton was the groundwork on which the Parliament founded that system of representation, of which their dispersion by military force seems to have prevented the completion. Its principle was adopted by Cromwell's Parliament in 1654, but modified by the admission of many of the former boroughs and of the unrepresented town of Halifax.—The Parliaments were to be triennial:—Every man who had a real or personal estate of 200*l.* was to vote in counties, in addition to the forty-shilling freeholders; and the ancient rights were preserved in cities and towns. * His second Parliament were elected according to this system, which they did not alter.

It is somewhat remarkable, that in the thirty succeeding years of agitation and change, this subject should have so little occupied the attention of the great political writers, who, to the discredit of our age, are now unreasonably and ungratefully undervalued. The favourite plan of Milton was, that 'the Commonwealth should be ruled by a Senate chosen by the People

* Mr Hume says, that 'an estate of 200*l.* was necessary to entitle *any one* to vote.' That this is a mistake, appears from the Resolution of that very independent House of Commons, 27th November 1654.

'for life.'—He is very solicitous to provide against 'a licen-'tious and unbridled Democracy, which in the ancient Repub-'lics ruined themselves by their own excessive power.' The propensities of the ingenious Harrington were also somewhat aristocratical. 'There is something,' he says, 'in the making and 'ruling a Commonwealth, which (though there be great divines, 'great lawyers, and great men in all professions) seems to be 'peculiar only to the genius of a Gentleman.' Whether Sydney preferred a republic to an honest and liberal administration of the English Government, is a question which cannot be decided by his resistance to Kings of Stuart character or principles. It is at least evident that democracy was not the object of his choice; and in his admirable writings we discover strong marks of the feelings, and even prejudices, of his noble descent. The passage in which Mr Locke regrets the state of the representation, affords the most decisive evidence that he contended for, or rather suggested, nothing more than the expediency of a moderate reform; and that he rejected those practical inferences, since drawn from the general language in which both he and Sydney had maintained the sacred rights of nations to resist and expel tyrants.

That passage* is a strong authority in favour of moderate Parliamentary Reform. The grievances which he complains of, are, unpeopled boroughs, and unrepresented populous towns: and his means of reformation consist in the revival of the Royal prerogative, of bestowing representation on such towns, as have become considerable.—Whether the great philosopher was consistent with himself, in not patronizing more extensive changes, may be a debateable question. That he did not, is most certain. The radical reformers cannot appeal to his writings, without destroying their authority, by showing that one part of them is inconsistent with another.

The subject of representation was almost unnoticed at the Revolution; and though, after that glorious triumph, the public jealousy, formerly confined to prerogative, began with great reason to be directed to the subserviency of Parliament, yet, during the fifty years which followed, the expedients proposed for the reduction of the growing influence of the Crown, were chiefly either an abridgement of the duration of Parliaments, or the exclusion of all or of some Placemen from the House of Commons. Carte, the Jacobite historian, inveighs against the representation of the smaller boroughs, and proposes to allow the freeholders of the hundreds to vote in them; both to pro-

* Locke on Civil Government, B. 2. chap. 13. sec. 157.

mote the ascendancy of the smaller landholders who then formed the strength of his party, and as one of the weapons with which Jacobites, in republican disguise, assailed the Government established at the Revolution. Two sentences of Hume and Blackstone comprehend all that we recollect on this subject before the death of George II.

The dispute with America about the connexion of Taxation and Representation, gave a new importance to these questions, and for the first time rendered them the subject of public discussion. Lord Chatham's famous speech in 1770, which proposed 'to infuse a new portion of health into the Constitution,' by an addition to county members, was the first suggestion of a specific reform made by a statesman in a place of authority.—Towards the end of the American war, the Government became generally unpopular; and its discredit was justly shared by a compliant Parliament. The waste of blood and treasure; the disgrace of our arms; the debility and distraction of our councils, were generally, and not without reason, imputed to the restoration of Toryism, and the unconstitutional principles which had prevailed from the beginning of the reign. Associations for retrenchment and economical reform were adopted in the principal counties of England; and on them, in many places, were grafted associations for Parliamentary Reform.

Projects of moderate reform were approved by Mr Fox, and introduced into Parliament by Mr Pitt,—where they were rejected by small majorities. They were at that time much more popular than at any antecedent or subsequent period, and were probably supported by a majority of those classes, among whom the integrity and intelligence of the nation are chiefly to be found.

Then, however, as now, the Whig party were divided on this important question,—though they all agreed that the Government ought to be Parliamentary, and that Parliament ought to be, in its feelings and principles, Popular. They had all concurred in the famous resolution of Mr Dunning in 1780, 'That the influence of the Crown has increased, is increasing, and ought to be diminished.'

The interest, and charges on the national debt, have, since the period of that resolution, been multiplied fourfold. The military, naval, colonial, and fiscal establishments have been augmented beyond any former example. Whether these augmentations are to be regarded as proofs of the subserviency of Parliament, or only as sources of new influence to the Crown, it equally follows, that the principle of Mr Dunning's resolution is more strongly applicable to the present state of the kingdom,

than it was to that which subsisted forty years ago. That the House of Commons has become less popular, and more subservient to the Crown than the great principles of the Constitution require, is indeed a proposition, about which there can be little difference of opinion among the ardent and zealous lovers of Liberty. * Agreed, however, as the Whigs were, respecting the nature, extent, and danger of the distemper, they differed as they still unfortunately do, about the efficacy and safety of the most celebrated remedies.

Many of them, persuaded that nothing could counteract the influence of the Crown, but a House of Commons formed on a wider basis, contended for shorter Parliaments, and more popular elections. Others of equal honesty and judgment, were of opinion, that short Parliaments would rather increase, than diminish the influence of the Crown; and that every change in the modes of elections, would prove either insignificant or dangerous. These differences reappeared when the same questions were agitated at the beginning of the French Revolution; though they were soon lost, in the wider differences, respecting measures of immediate practice, which followed. As soon as the Revolutionary war had ceased, which, by dissolving the Whig party, had thrown the Dictatorship into the hands of Mr Pitt, the greater part of those members of that party, who had been most zealous against change, returned to their old friends, and their ancient standard, with an eagerness and satisfaction which perfectly proved that the same steady and disinterested principles continued to actuate the men, and the families, who, for sixty years, had made the only effectual resistance to the power and policy of the Court. But they returned, with their opinions unchanged on the subject of Parliamentary reform, and with new claims on the confidence and attachment of their friends.

No such concurrence in opinion, or numerous support, or probability of success, had attended projects of reform, at their most favourable period, as to render it possible to make them the bond of union of a Parliamentary party. Mr Pitt in power, and Mr Fox in opposition, were, on this subject, alike resisted by the most distinguished of those who supported them on all others. Parliamentary parties, indeed, are generally formed, to support, or oppose, those ordinary measures of Government, in which every man must take a part. They are very much affected, by the spirit in which these measures are carried on,

* See Mr Burke's 'Thoughts on the Causes of the present Discontents;'—a work which was, is, and in its general principles, must ever continue to be, the creed of English Whigs.

and by the character, and general principles of those who conduct them. The same laws may be administered, harshly or leniently; narrowly or liberally. Religious liberty may be patronized or discouraged; the Press may be favoured or almost annihilated, without any breach, in either case, of the letter of the law. A government may be pacifick, or ambitious; frugal or prodigal; without passing the limits of its undisputed authority. These important differences, depend almost entirely upon the habits of thinking and acting of those who conduct public affairs.

To take an obvious example. Of two men whose general language regarding the British Constitution may be the same, one, become habitually fearful of popular tumult, long engaged perhaps in active hostility to revolutions originally popular, and haunted by the remembrance of their atrocities and horrors, will consent, on the slightest grounds, to the suspension of the Habeas Corpus:—while another, whose whole habits of thinking and feeling lead him to view that sacred right with the deepest affection and reverence,—accustomed incessantly to contemplate the miseries which have arisen from its absence in other countries, and the enormous abuses which never fail to attend its suspension even in our own,—cannot be brought, without great difficulty, if at all, to take away from the People this most effectual of all the securities which human wisdom has ever devised against oppression.

The whole difference between these two men, consists in habits of thinking and feeling: Yet, on the ascendant enjoyed by the one or the other, the character of the Administration must in a great measure depend. It is therefore on public, and not on ambitious grounds, that English parties are so essentially founded on personal confidence and attachment.—The cause of Reform must now, as heretofore, be left in Parliament to the judgment of individuals. It cannot form an article in the original contract of any party. It is too great a question, to admit of that sacrifice of private judgment, which the principle of party requires, and which may be well warranted, in the ordinary course of questions relating to the choice of men and measures.

It might at first, then, seem that discussions on this subject are, for the present at least, rather matters of ingenious speculation, than connected with the business and interest of the community. We own that we are of a different opinion.—Sixty years ago, the opinion of Parliamentary parties might be said to represent all the opinions of the nation. The case is now materially different. The number of those who take an interest in political affairs, has increased with a rapidity formerly unknown.

The Political Public has become not only far more numerous, but more intelligent, more ardent, more bold, and more active. During the last thirty years, its numbers have been increased, more perhaps than in any equal period since the Reformation, by the diffusion of knowledge, by the pressure of public distress, and by the magnitude of revolutions, sufficient to rouse an attention, which would have slumbered in the noiseless tenor of common events. The course of the late general election, has laid open much of this important change. It would be a mistake to estimate its extent, by the number of members whom it has placed in the House of Commons. In many places, it preserved the old members; in others, no popular candidates were to be found, only because no one had been sanguine enough to expect such a display of popular spirit. In many places it was kept in check by overpowering influence; in some, by respectable character. But no man has canvassed a county in England, who has not felt, that political opinions have penetrated into places where they never before reached. Those who think this an evil, and those who think it a good, are perfectly agreed in the fact.

We need not say that *we* consider it as a good. But whether it will, in the first instance, be productive of unmixt advantage to public liberty, will, we think, very much depend on the opinions permanently adopted by the majority of the people, respecting some general questions, and especially those connected with Parliamentary Reform. If these opinions should be irreconcileably repugnant to those of the educated and proprietary classes; if they should be such, as to preclude negociation, and render compromise impossible; if their plans of reform should be considered, by the experienced and instructed, as the road to inevitable destruction, the result will certainly be, not only to throw discredit upon all measures of reformation, but to endanger our ancient and hereditary liberties. We shall not only not improve the Constitution; but we shall hardly preserve it. In most other circumstances, it might be apprehended, that so wide a schism in society, such an impassable gulph opened between its different classes, would lead to a violent subversion of government. This, however, is not the evil which we think in this country most probable: But if such a principle as Universal Suffrage should once prevail among the laborious classes, a permanent animosity between opinion and property must be the consequence. Property, which has more influence in this country than it ever had in any other, will commonly prevail. A sullen submission is likely, however, to be interrupted by occasional acts of violence, more than enough to increase the fears and suspicions of the proprietors, until the Government,

at their entreaty, shall successively remove every restraint on authority, and all those safeguards of Liberty, which it has taken us six centuries to establish.

Human affairs, it is true, seldom follow that regular course which would be previously pointed out by probable reasoning. Unforeseen circumstances open new channels, and stop up the old. Opinions, too obstinate to be confuted, are insensibly worn out. But though we cannot foresee events, we may, and must, both argue and act upon tendencies. Though, therefore, the evils likely to arise from the prevalence of pernicious opinions will, we trust, be far less than they seem to us capable of producing, their tendency will at least justify us, in occasionally applying some part of our Review to the consideration of this subject.

As we address ourselves to reasonable minds, in the hope of removing or preventing error, we shall endeavour to do so, in a perfectly dispassionate tone. Of Universal Suffrage itself we must speak frankly,—firmly believing, that the adherence of any considerable body of the people to it, as a measure of Reform, tends to make reformation impossible, and liberty itself odious and terrible; to raise up a subject of difference between the higher and lower classes, about which no concessions, and no treaty are practicable; and ultimately to drive the nation to seek refuge in absolute government. We must freely say what we think we shall be able to prove;—but towards its partisans, we shall use no weapons, but those of argument.

With regret we see among their number ingenious and enlightened men, though none indeed who have had political experience. The name of Mr Bentham, prefixed to this article, will be sufficient to preserve our calmness. We highly honour his talents and character; and we should be utterly inexcusable, if we were not warned against intemperance and personality, by the example which a philosopher has unfortunately afforded in the volume before us. We feel the less reluctance to select Mr Bentham on this occasion, because his plan of reform is in truth no other than that of Major Cartwright, translated out of the pure and plain English, which is the good Major's only valuable quality as a writer, into the peculiar language of Mr Bentham, which his most judicious friends do not consider as his strongest part.

There are many passages, especially of his earlier writings, distinguished by significant and forcible language—by a diction at once nervous and precise—which conveys to the minds of his readers his opinions and sentiments, with the effect of true eloquence. But probably from the long habit of writing what he

had no intention immediately to publish, he appears to use words rather as remembrancers for his own use, than as the means of signifying his thoughts to others. The effect has been, a profusion of needless and uncouth terms of art, which may indeed give his writings an air of discovery, in the eyes of those to whom speculation is new, but which, for that reason among others, create more than a due prejudice against them, among the great majority of men of sense.

In discussion with him, we have the advantage of agreeing in a common principle. Like him, we consider utility as the test of every political institution: He is a greater enemy than we are, to those notions of natural right, which usually form so large a part of discussions on Reform. We are therefore delivered from the necessity of making any remarks on that part of the subject. The falsehood of the doctrine which represents Annual Parliaments and Universal Suffrage as the ancient legal right of the people of England, has already been proved by historical demonstration. At all events, the dispute must finally be decided by the principle of Utility for though men should have a right to Universal Suffrage, it is evident that they ought to wave its exercise, if it cannot be exerted without mischief to themselves; and though our ancient laws should have established Universal Suffrage, it is equally certain that it ought not to be revived, its revival would be injurious to society.

Before we enter on the argument, we wish to wave all advantage, which may be supposed to be possessed by those who defend established principles against untried projects. We shall compare different plans of representation, as if they were for the first time presented to the judgment and choice of a nation, borrowing no aid from the established system, but the experience with which it has supplied us. For that reason, we forbear to employ those arguments which have been founded on the supposed tendency of Universal Suffrage, to destroy the regal and aristocratical parts of the Constitution. The question which we are desirous of considering is, *whether it would be conducive to the liberties of the people.*

What mode of representation is most likely to secure the liberty, and consequently the happiness, of a community circumstanced like the people of Great Britain?—On the elementary part of this great question, it will be sufficient to remind the reader of a few undisputed truths.—The object of Government, is security against wrong. Most civilized governments, tolerably secure their subjects against wrong from each other. But to secure them, by laws, against wrong from the Government itself, is a problem of a far more difficult sort, which few nations have at-

tempted to solve,—and of which it is not so much as pretended that, since the beginning of History, more than one or two great states have approached the solution.

It will be univerally acknowledged, that this approximation has never been effected by any other means, than that of a Legislative Assembly, chosen by some considerable portion of the People. The direct object of a popular representation, is, that one, at least, of the bodies exercising the Legislative Power being dependent on the people by election, should have the strongest inducement to guard the interests, and to maintain the rights of the people.

For this purpose, it is not sufficient, that they should have the same general interests with the people; for every government has, in truth, the same interests with its subjects. It is necessary, that the more direct and palpable interest, arising from election, should be superadded. In every legislative senate, the modes of appointment ought to be such, as to secure the nomination of members the best qualified, and the most disposed, to make laws conducive to the wellbeing of the whole community. In a Representative assembly this condition, though absolutely necessary, is not of itself sufficient. To understand the principles of its composition thoroughly, we must divide the people into classes, and examine the variety of local and professional interests of which the general interest is composed. Each of these classes must be represented by persons who will guard its peculiar interest, whether that interest arises from inhabiting the same district, or pursuing the same occupation,—such as traffic or husbandry, or the useful or ornamental arts. The fidelity and zeal of such representatives, are to be secured by every provision, which, to a sense of common interest, can superadd a fellow-feeling with their constituents. Nor is this all.—In a great State, even that part of the public interest which is common to all classes, is composed of a great variety of branches. A statesman should indeed have a comprehensive view of the whole: But no one man can be skilled in all their particulars. The same education, and the same pursuits, which qualify men to understand and regulate some branches, disqualify them for others. The Representative assembly must therefore contain,—some members peculiarly qualified for discussions of the Constitution and the Laws, others for those of Foreign Policy;—some for the respective interests of Agriculture, Commerce, and Manufactures;—some for Military affairs by sea and land, and some also who are conversant with the colonies and distant possessions of a great empire. It would be a mistake to suppose that the place of such representatives could

be supplied by witnesses examined on each particular subject. Both are not more than sufficient,—skilful witnesses occasionally, for the most minute information,—skilful representatives continually, to discover and conduct evidence, to enforce and illustrate the matters belonging to their department with the weight of those who speak on a footing of equality.

It is obvious, that as long as this composition is insured, it is for the present purpose a matter of secondary importance whether it be effected by direct or indirect means. To be a faithful representative, it is necessary that such an assembly should be numerous; that it should learn, from experience, the movements that agitate multitudes; and that it should be susceptible, in no small degree, of the action of those causes which sway the thoughts and feelings of assemblies of the people. For the same reason, among others, it is expedient that its proceedings should be public; and the reasonings on which they are founded, submitted to the judgment of mankind. These democratical elements are indeed to be tempered and restrained by such contrivances as may be necessary to maintain the order and independence of deliberation: But, without them, no assembly, however elected, can truly represent a people.

Among the objects of representation, two may, in an especial manner, deserve observation:—the qualifications for making good laws, and those for resisting oppression. Now, the capacity of an assembly to make good laws, evidently depends on the quantity of skill and information of every kind which it possesses. But it seems to be advantageous that it should contain a large proportion of one body of a more neutral and inactive character—not indeed to propose much, but to mediate or arbitrate in the differences between the more busy classes, from whom important propositions are to be expected. The suggestions of every man relating to his province, have doubtless a peculiar value: But most men imbibe prejudices with their knowledge; and, in the struggle of various classes for their conflicting interests, the best chance for an approach to right decision, lies in an appeal to the largest body of well-educated men, of leisure, large property, temperate character, and who are impartial on more subjects than any other class of men. An ascendancy, therefore, of landed proprietors must be considered, on the whole, as a beneficial circumstance in a representative body.

For resistance to oppression, it is peculiarly necessary that the lower, and, in some places, the lowest classes, should possess the right of suffrage. Their rights would otherwise be less protected than those of any other class: For some individuals of every other class, would generally find admittance into the Le-

gislature; or, at least, there is no other class which is not connected with some of its members. Some sameness of interest, and some fellow-feeling, would therefore protect every other class, even if not directly represented. But in the uneducated classes, none can either sit in a representative assembly, or be connected on an equal footing with its members. The right of suffrage, therefore, is the only means by which they can make their voice heard in its deliberations. They also often send to a representative assembly, members whose character is an important element in its composition. Men of popular talents, principles, and feelings; quick in suspecting oppression; bold in resisting it; not thinking favourably of the powerful; listening, almost with credulity, to the complaints of the humble and the feeble; and impelled by ambition, where they are not prompted by generosity, to be the champions of the defenceless. It is nothing to say, that such men require to be checked and restrained by others of a different character. This may be truly said of every other class. It is to no purpose to observe, that an assembly exclusively composed of them, would be ill fitted for the duties of legislation. For the same observation would be perfectly applicable to any other of those bodies which make useful parts of a mixed and various assembly.

In all political institutions, it is a fortunate circumstance, when legal power is bestowed on those who already possess a natural influence and ascendant over their fellow-citizens.—Wherever, indeed, the circumstances of society, and the appointments of law, are in this respect completely at variance, submission can hardly be maintained without the odious and precarious means of force and fear. Where law and nature coincide, government is most secure; and the people may be most free. But in a representative assembly, which exercises directly no power, and of which the members are too numerous to derive much individual consequence from their stations, the security and importance of the body, more than in any other case, depend on the natural influence of those who compose it. In this respect, talent and skill, besides their direct utility, have a secondary value of no small importance. Together with the other circumstances which command respect or attachment among men—with popularity, with fame, with property, with liberal education and condition—they form a body of strength, which no law could give or take away. As far as an assembly is deprived of any of these natural principles of authority, so far it is weakened, both for the purpose of resisting the usurpations of government, and of maintaining the order of society.

An Elective system tends also, in other material respects, to secure that free government, of which it is the most essential member. As it calls some of almost every class of men, to share in legislative power, and many of all classes to exercise the highest franchises, it engages the pride, the honour, and the private interest as well as the generosity, of every part of the community, in defence of the Constitution. Every noble sentiment, every reasonable consideration, every petty vanity, and every contemptible folly, are made to contribute towards its security. The performance of some of its functions, becomes part of the ordinary habits of bodies of men numerous enough to spread their feelings over great part of a nation.

Popular representation thus, in various ways, tends to make governments good, and to make good governments secure.—These are its primary advantages: But free, that is, just governments, tend to make men more intelligent, more honest, more brave, more generous. Liberty is the parent of genius, the nurse of reason, the inspirer of that valour which makes nations secure and powerful; the incentive to that activity and enterprise to which they owe wealth and splendour; the school of those principles of humanity and justice which bestow an unspeakably greater happiness, than any of the outward advantages of which they are the chief sources, and the sole guardians.

These effects of free government on the character of a people, may, in one sense, be called indirect and secondary; but they are not the less to be considered as among its greatest blessings: and it is scarcely necessary to observe, how much they tend to enlarge and secure the liberty from which they spring. But their effect will perhaps be better shown by a more particular view of the influence of popular elections on the character of the different classes of the community.

To begin with the higher classes.—The English Nobility, who are blended with the gentry by imperceptible shades, are the most opulent and powerful order of men in Europe. They are comparatively a small body, who unite great legal privileges with ample possessions, and names both of recent renown and historical glory. They have attained almost all the objects of human pursuit. They are surrounded with every circumstance which might seem likely to fill them with arrogance, to teach them to scorn their inferiors,—and might naturally be supposed to extinguish enterprise, and to lull every power of the understanding to sleep. What has preserved their character?—what makes them capable of serving or adorning their country as orators and poets, men of letters and men of business, in as great a proportion as in any equal number of the best educat-

ed classes of their countrymen? Surely only one solution can be given of these phenomena, peculiar to our own country.* Where all the ordinary incentives to action are withdrawn, a free constitution excites it, by presenting Political Power as a new object of pursuit. By rendering that power in a great degree dependent on popular favour, it compels the highest to treat their fellow-creatures with decency and courtesy; and disposes the best of them to feel, that inferiors in station may be superiors in worth, as they are equals in right. Hence chiefly arises that useful preference for country life, which distinguishes the English gentry from that of other nations. In despotic countries they flock to the Court, where all their hopes are fixed. But here, as they have much to hope from the people, they must cultivate the esteem, and even court the favour of their own natural dependants. They are quickened in the pursuit of ambition, by the rivalship of that enterprising talent, which is stimulated by more urgent motives. These dispositions and manners have become, in some measure, independent of the causes which originally produced them; and extend to many on whom these causes could have little operation. In a great body, we must allow for every variety of form and degree. It is sufficient that a system of extensive popular representation has, in a course of time, produced this general character, and that the English Democracy is the true preservative of the talents and virtues of the Aristocracy.

The effects of the Elective franchise upon the humbler classes, are, if possible, still more obvious and important. By it the peasant is taught to 'venerate himself as man;' to employ his thoughts, at least occasionally, upon high matters; to meditate on the same subjects with the wise and the great; to enlarge his feelings beyond the circle of his narrow concerns; to sympathize, however irregularly, with great bodies of his fellow-creatures; and sometimes to do acts which he may regard as contributing directly to the welfare of his country. Much of this good tendency is doubtless counteracted by other circumstances. The outward form is often ridiculous or odious.

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* To be quite correct, we must remind the reader, that we speak of the character of the whole body, composed, as it is, of a small number. In a body like the French noblesse, amounting perhaps to a hundred thousand, many of whom were acted upon by the strongest stimulants of necessity; and, in a country of such diffused intelligence as France, it would have been a miracle if many had not risen to eminence in the state, and in letters, as well as in their natural profession of arms.

The judgments of the multitude are never exact, and their feelings often grossly misapplied: but, after all possible deductions, great benefits must remain. The important object is, that they should think and feel;—that they should contemplate extensive consequences as capable of arising from their own actions, and thus gradually become conscious of the moral dignity of their nature. Among the very lowest classes, where the disorders of election are the most offensive, the moral importance of the Elective franchise is, in some respects, the greatest. As individuals, they feel themselves of no consequence;—hence, in part, arises their love of numerous assemblies, the only scenes in which the poor feel their importance. Brought together for elections, their tumultuary disposition, which is little else than a desire to display their short-lived consequence, is gratified at the expense of inconsiderable evils. It is useful that the pride of the highest should be made occasionally to bend before them; that the greatest objects of ambition should be partly at their disposal: It teaches them to feel that *they* also are men. It is to the exercise of this franchise, by some bodies of our lowest classes, that we are to ascribe that sense of equality—that jealousy of right—that grave independence, and calm pride, which has been observed by foreigners as marking the deportment of Englishmen.

By thus laying open some of the particular modes in which representation produces its advantages to the whole community, and to its separate classes, we hope that we have contributed somewhat to the right decision of the practical question which now presents itself to our view.—Systems of election may be of very various kinds. The right of suffrage may be limited, or universal; it may be secretly, or openly exercised; the representatives may be directly, or indirectly, chosen by the people; and where a qualification is necessary, it may be uniform, or it may vary in different places. A variety of rights of suffrage is the principle of the English representation.—In the reign of Edward the First, as much as in the present moment, the Members for counties were chosen by freeholders; and those for cities and towns by freemen, burgage tenants, householders or freeholders. Now, we prefer this general principle of our representation to any uniform right of suffrage; though we think that, in the present state of things, there are many particulars which, according to that principle, ought to be amended. Our reasons for this preference are shortly these—Every uniform system which seriously differs from universal suffrage, must be founded on such a qualification, as to take away the Elective franchise from those portions of the inferior classes who now en-

joy it. Even the condition of paying direct taxes, would disfranchise many. The only reasonable ground, on which an uniform qualification of property could be founded, would be its tendency to secure the independence of the voter; but it is evident that such a principle, if pursued to its proper consequences, would disfranchise great multitudes of the present electors. After what we have already said, on the general subject of representation, it is needless for us to add, that we should consider such a disfranchisement as a most pernicious mutilation of the representative system. It has already been seen, how much, in our opinion, the proper composition of the House of Commons, the justice of the government and the morality of the people, depend upon the elections which would be thus sacrificed.

This tendency of an uniform qualification, is visible in the new French system. The qualification for the electors, is the annual payment of direct taxes to the amount of about 12*l*. When the wealth of the two countries is compared, it will be apparent that, in this country, such a system would be thought a mere aristocracy. In France, the result is a body of 100,000 electors: † and in the situation and temper of the French nation, such a scheme of representation may be eligible. But we mention it only as an example, that every uniform qualification, which is not altogether illusory, must incline towards independent property, as being the only ground on which it can rest. The reform of Cromwell had the same aristocratical character, though in a far less degree. It nearly excluded what is called the populace; and, for that reason, is commended by the most sagacious * of our Tory writers. An uniform qualification, in short, must be so high as to exclude true popular election, or so low, as to be liable to most of the objections which we shall presently offer against Universal Suffrage. It seems difficult to conceive how it could be so adjusted, as not either to impair the spirit of liberty, or to expose the quiet of society to continual hazard.

Our next objection to unifomity, is, that it exposes the difference between the proprietors and the indigent, in a way offensive and degrading to the feelings of the latter. The difference itself is indeed real, and cannot be removed; but in our present system, it is disguised under a great variety of usages: It is far from uniformly regulating the franchise, and, even where it does, this invidious distinction is not held out in its naked form.

† The population of France is now estimated at twenty-nine millions and a half.

* Clarendon, Hume, &c.

—No broad line of demarcation is drawn between the electors and the non-electors, disposing them to mutual animosity, and either degrading the latter class, or provoking them to dangerous excesses. It is something, also, that the system of various rights does not constantly thrust forward that qualification of property, which, in its undisguised state, may be thought to teach the people too exclusive a regard for wealth.

This variety, by giving a very great weight to property in some elections, enables us safely to allow an almost unbounded scope to popular feeling in others. While some have fallen under the influence of a few great proprietors, others border on universal suffrage. All the intermediate varieties, and all their possible combinations, find their place. Let the reader seriously reflect how all the sorts of men, who are necessary component parts of a good House of Commons, could on any other scheme find their way to it. We have already sufficiently animadverted on the mischief of excluding popular leaders. Would there be no mischief, in excluding those important classes of men, whose character unfits them for success in a canvass, or whose fortune may be unequal to the expense of a contest? A representative assembly, elected by a low uniform qualification, would fluctuate between country gentlemen and demagogues. Elected on a high qualification, it would probably exhibit an unequal contest between landholders and courtiers. All other interests would, on either system, be unprotected. No other class would contribute its contingent of skill and knowledge, to aid the deliberations of the Legislature.

The founders of new commonwealths must, we confess, act upon some uniform principle. A builder can seldom imitate, with success, all the fantastic but picturesque and comfortable irregularities, of an old mansion, which through a course of ages has been repaired, enlarged, and altered, according to the pleasure of various owners. This is one of the many disadvantages attendant on the lawgivers of infant states. Something, perhaps, by great skill and caution, they might do; but their wisdom is most shown, after guarding the great principles of Liberty, by leaving time to do the rest.

Though we are satisfied, by the above and by many other considerations, that we ought not to exchange our diversified elections for any general qualification, we certainly consider Universal Suffrage as beyond calculation more mischievous than any other uniform right. The reasons which make it important to liberty, that the elective franchise should be exercised by large bodies of the lower classes, do not in the least degree require that it should be conferred on them all. It is necessary to their security from

oppression, that the whole class should have some representatives; but as their interest is everywhere the same, representatives elected by one body of them, are necessarily the guardians of the rights of all. The great object of representation for them, is to be protected against violence and cruelty. Sympathy with suffering, and indignation against cruelty, are easily excited in numerous assemblies, and must either be felt or assumed by all their members. Popular elections generally ensure the return of some men, who shrink from no appeal, however invidious, on behalf of the oppressed. We must again repeat, that we consider such men as invaluable members of a House of Commons;—perhaps their number is at present too small. What we now maintain is, that, though elected by one place, they are in truth the representatives of the same sort of people in other places. Their number must be limited, unless we are willing to exclude other interests, and to sacrifice other most important objects of representation.

The exercise of the Elective franchise by some of the laborious classes, betters the character, raises the spirit, and enhances the consequence of all. An English farmer or artisan is more high-spirited and independent, than the same classes in despotic countries; but nobody has ever observed that there is in England a like difference between the husbandman and mechanic—who have votes, and who have not. The exclusion of the class degrades the whole; but the admission of a part bestows on the whole a sense of importance, and a hold on the estimation of their superiors. It must be admitted, that a small infusion of popular election would not produce these effects. Whatever might seem to be the accidental privilege of a few, would have no influence on the rank of their fellows. It must be considerable—and, what is perhaps still more necessary, it must be conspicuous—and forced on the attention by the circumstances which excite the feelings, and strike the imagination of mankind. The value of external dignity is not altogether confined to kings or senates. The people also have their majesty; and they too ought to display their importance in the exercise of their rights.

It is said, says Mr Horne Tooke in his Letter to Lord Ashburton—

'That "the all of one man is as dear to him, as the all of another man is to that other." But, my Lord, this maxim will not hold by any means; for a small all is not, for very good reasons, so dear as a great all. A small all may be lost and easily regained; it may very often, and with great wisdom, be risqued for the chance of a greater; it may be so small, as to be little or not at all worth defending or caring for. *Ibit eo qui zonam perdidit.* But a large all can never

be recovered: It has been amassing and accumulating, perhaps, from father to son for many generations; or it has been the product of a long life of industry and talents; or the consequence of some circumstance which will never return. But I am sure I need not dwell upon this. Without placing the extremes of fortune in array against each other, every man whose all has varied at different periods of his life, can speak for himself, and say, whether the dearness in which he held these different alls was equal. The lowest order of men consume their all daily, as fast as they acquire it.

'My Lord, justice and policy require that benefit and burthen, that the share of power, and the share of contribution to that power, should be as nearly proportioned as possible. If aristocracy will have all power, they are tyrants, and unjust to the people; because aristocracy alone does not bear the whole burthen. If the smallest individual of the people contends to be equal in power to the greatest individual, he too is, in his turn, unjust in his demands; for his burthen and contribution are not equal.

'Hitherto, my Lord, I have only argued against the *equality*;—I shall now venture to speak against the *universality*, of representation, or of a share in the government; for the terms amount to the same. Freedom and security ought surely to be equal and universal. But, my Lord, I am not at all backward to contend, that some of the members of a society may be *free* and *secure*, without having a share in the government. The happiness and freedom, and security of the whole, may even be advanced by the exclusion of some, not from freedom and security, but from a share in the government. My Lord, extreme misery, extreme dependence, extreme ignorance, extreme selfishness (I mean that mistaken selfishness which excludes all public sense), all these are just and proper causes of exclusion from a share in the government, as well as extreme criminality, which is admitted to exclude; for thither they all tend, and there they frequently finish.'

The question between us and Mr Bentham is, whether all interests will be best protected, where the representatives are chosen by all men,—or where they are elected by considerable portions only, of all classes of men. This question will perhaps be more clearly answered by setting out from examples, than from general reasonings. If we suppose Ireland to be an independent state, governed by its former House of Commons, it will at once be admitted, that no shadow of just government existed, where the Legislature were the enemies, instead of being the protectors of the Catholics, who formed a great class in the community. That this evil was most cruelly aggravated by the numbers of the oppressed, is true. But, will it be contended, that such a government was unjust, only because the Catholics were a majority? We have only then to suppose the case reversed;—that the Catholics were to assume the whole power, and to retaliate upon

the Protestants, by excluding them from all political privilege. Would this be a just or equal government? That will hardly be avowed. But what would be the effect of establishing Universal Suffrage in Ireland? It would be, to do that in substance, which no man would propose in form. The Catholics, forming four-fifths of the population, would, as far as depends on laws, possess the whole authority of the State. Such a government, instead of protecting all interests, would be founded in hostility to that which is the second interest in numbers, and in many respects the first. The oppressors and the oppressed would, indeed, change places. We should have Catholic tyrants, and Protestant slaves:—But our only consolation would be, that the island would contain more tyrants, and fewer slaves.

If there be persons who believe that majorities have any power over the eternal principles of justice, or that numbers can in the least degree affect the difference between right and wrong, it would be vain for us to argue against those with whom we have no principles in common. To all others it must be apparent, that a representation of *classes* might possibly be so framed as to secure both interests; but that a representation of numbers must enslave the Protestant minority. That the majority of a people may be a tyrant as much as one or a few, is most apparent in the cases where a state is divided, by conspicuous marks, into a permanent majority and minority. 'Till the principles of Toleration be universally felt, as well as acknowledged, Religion will form one of these cases. Till reason and morality be far more widely diffused than they are, the outward distinctions of colour and feature will form another, more pernicious, and less capable of remedy. Does any man doubt, that the establishment of Universal Suffrage, among emancipated slaves, would be only another word for the oppression, if not the destruction, of their former masters? But is slavery itself really more unjust, where the slaves are a majority, than where they are a minority? or may it not be said, on the contrary, that to hold men in slavery is most inexcusable, where society is not built on that unfortunate foundation, where the supposed loss of their labour would be an inconsiderable evil, and where no danger could be pretended from their manumission? Is it not apparent, that the lower the right of suffrage descends in a country, where the whites are the majority, the more cruel would be the oppression of the enslaved minority? An aristocratical legislature might consider, with some impartiality, the disputes of the free and of the servile labourers; but a body, influenced chiefly by the first of these rival classes, must be the oppressors of the latter.

These, it may be said, are extreme cases:—They are selected for that reason. But the principle which they strikingly illustrate, will, on a very little reflection, be found applicable in some degree to all communities of men.

The labouring classes are in every country a perpetual majority. The diffusion of education will doubtless raise their minds, and throw open prizes for the ambition of a few, which will spread both activity and content among the rest. But in the present state of the population and territory of European countries, the majority of men must earn their subsistence by daily labour. Notwithstanding local differences, persons in this situation have a general resemblance of character, and sameness of interest. Their interest, or what they think their interest, may be at variance with the real or supposed interests of the higher orders. If they are considered as forming, in this respect, one class of society, a share in representation may be allotted to them, sufficient to protect their interest, compatible with the equal protection of the interests of all other classes, and regulated by a due regard to all the qualities which are required in a well-composed legislative assembly. But, if representation be proportioned to numbers alone, every other interest in society is placed at the disposal of the multitude. No other class can be effectually represented; no other class can have a political security for justice; no other can have any weight in the deliberations of the Legislature. No talents, no attainments, but such as recommend men to the favour of the multitude, can have any admission into it. A representation so constituted, would produce the same practical effects, as if every man whose income was above a certain amount, were excluded from the right of voting. It is of little moment to the proprietors, whether they be disfranchised, or doomed, in every election, to form a hopeless minority.

Nor is this all. A representation, founded on numbers only, would be productive of gross inequality in that very class to which all others are sacrificed. The difference between the people of the country and those of towns, is attended with consequences which no contrivance of law can obviate. Towns are the nursery of political feeling. The frequency of meeting, the warmth of discussion, the variety of pursuit, the rivalship of interest, the opportunities of information, even the fluctuations and extremes of fortune, direct the minds of their inhabitants to public concerns, and render them the seats of republican governments, or the preservers of liberty in monarchies. But if this difference be considerable among edu-

cated men, it seems immeasurable when we contemplate its effects on the more numerous classes. Among them, no strong public sentiment can be kept up without numerous meetings. It is chiefly when they are animated by a view of their own strength and numbers,—when they are stimulated by an eloquence suited to their character,—and when the passions of each are strengthened by the like emotions of the multitude which surround him, that the thoughts of such men are directed to subjects so far from their common callings as the concerns of the commonwealth. All these aids are necessarily wanting to the dispersed inhabitants of the country, whose frequent meetings are rendered impossible by distance and poverty; who have few opportunities of being excited by discussion or declamation, and very imperfect means of correspondence or concert with those at a distance.

An agricultural people is generally submissive to the laws, and observant of the ordinary duties of life,—but stationary and stagnant, without the enterprise which is the source of improvement, and the public spirit which preserves liberty. If the whole political power of the State, therefore, were thrown into the hands of the lowest classes, it would be really exercised only by the towns. About two-elevenths of the people of England, inhabit towns which have a population of ten thousand souls or upwards. A body so large, strengthened by union, discipline, and spirit, would without difficulty domineer over the lifeless and scattered peasants. In towns, the lower part of the middle classes are sometimes tame; while the lowest class are always susceptible of animation. But the small freeholders, and considerable farmers, acquire an independence from their position, which makes them very capable of public spirit.—While the classes below them are incapable of being permanently rendered active elements in any political combination, the dead weight of their formal suffrages would only oppress the independent votes of their superiors. All active talent would, in such a case, fly to the towns, where alone its power could be felt. The choice of the country would be dictated by the cry of the towns, wherever it was thought worth while to take it from the quiet influence of the resident proprietors. The country itself would be divided into a number of provinces, dependent on the democracies of the towns. Perhaps the only contrivance, which can in any considerable degree remedy the political inferiority of the inhabitants of the country to those of towns, has been adopted in the English Constitution, which, while it secures an ascendant of landholders in the Legislature, places the disposal of its most honoured and en-

vied seats in the hands of the lowest classes among the agricultural population, who are capable of employing the right of suffrage with spirit and effect.

They who think representation chiefly valuable, because whole nations cannot meet to deliberate in one place, have formed a very low notion of this great improvement. It is not a contrivance for conveniently collecting or blindly executing all the pernicious and unjust resolutions of ignorant multitudes. To correct the faults of democratical government, is a still more important object of representation, than to extend the sphere to which that government may be applied. It balances the power of the multitude by the influence of other classes; it substitutes skilful lawgivers for those who are utterly incapable of any legislative function; and it continues the trust long enough to guard the Legislature from the temporary delusions of the people. By a system of Universal Suffrage and Annual Elections, all these temperaments would be destroyed. The effect of crowded population in increasing the intensity and activity of the political passions, is extremely accelerated in cities of the first class. The population of London and its environs is nearly equal to that of all other towns in England of or above ten thousand souls. According to the principle of Universal Suffrage, it would contain about two hundred and fifty thousand electors; and send fifty-five members to Parliament. This electoral army would be occupied for the whole year in election or canvass, or in the endless animosities in which both would be fertile. A hundred candidates for their suffrages would be daily employed in inflaming their passions. No time for deliberation; no interval of repose in which inflamed passions might subside, could exist. The representatives would naturally be the most daring, and, for their purposes, the ablest of their body. They must lead or overawe the Legislature. Every transient delusion, or momentary phrensy of which a multitude is susceptible, must rush with unresisted violence into the representative body. Such a representation would differ in no beneficial respect from the wildest democracy. It would be democracy clothed in a specious disguise, and armed with more effective instruments of oppression,—but not wiser or more just than the democracies of old, which Hobbes called 'an *aristocracy* of orators, sometimes interrupted by the *monarchy* of a single orator.'

It may be said that such reasonings suppose the absence of those moral restraints of property and opinion which would temper the exercise of this, as well as of every other kind of suffrage. Landholders would still influence their tenants—farmers their labourers, artisans and manufacturers those whom

they employ:—property would still retain its power over those who depend on the proprietor.

To this statement we in some respects accede,—and on it we build our last and most conclusive argument against Universal Suffrage. It is true, that in very quiet times a multiplication of dependent voters would only augment the influence of wealth. If votes were bestowed on every private soldier, the effect would be only to give a thousand votes to the commanding officer who marched his battalion to the poll. Whenever the people felt little interest in public affairs, the same power would be exercised by every master through his dependants. The traders who employ many labourers in great cities would possess the highest power;—the great consumers and landholders would engross the remainder;—the rest of the people would be insignificant. As the multitude is composed of those individuals who are most incapable of fixed opinions, and as they are, in their collective capacity, peculiarly alive to present impulse, there is no vice to which they are so liable as inconstancy. Their passions are quickly worn out by their own violence. They become weary of the excesses into which they were plunged. Lassitude and indifference succeed to their fury, and are proportioned to its violence. They abandon public affairs to any hand disposed to guide them. They give up their favourite measures to reprobation, and their darling leaders to destruction. Their acclamations are often as loud around the scaffold of the demagogue, as around his triumphal car.

Under the Elective system, against which we now argue, the opposite evils of too much strengthening wealth, and too much subjecting property to the multitude, are likely, by turns, to prevail. In either case, it may be observed that the power of the middle classes would be annihilated. Society, on such a system, would exhibit a series of alternate fits of phrensy and lethargy. When the people were naturally disposed to violence, the mode of election would inflame it to madness. When they were too much inclined of themselves to listlessness and apathy, it would lull them to sleep. In these, as in every other respect, it is the reverse of a wisely constituted representation, which is a restraint on the people in times of heat, and a stimulant to their sluggishness when they would otherwise fall into torpor. This even and steady interest in public concerns, is impossible on a scheme which, in every case, would aggravate the predominant excess.

It must never be forgotten, that the whole proprietary body must be in a state of permanent conspiracy against an extreme democracy. They are the natural enemies of a constitution, which

grants them no power and no safety. Though property is often borne down by the torrent of popular tyranny, yet it has many chances of prevailing at last. Proprietors have steadiness, vigilance, concert, secrecy, and, if need be, dissimulation. They yield to the storm:—they regain their natural ascendant in the calm. Not content with persuading the people to submit to salutary restraints, they usually betray them, by insensible degrees, into absolute submission.

If the Commonwealth does not take this road to slavery, there are many paths that lead to that state of perdition. A Demagogue seizes on that despotic power for himself, which he for a long time had exercised in the name of his faction. A victorious General leads his army to enslave their country; and both these candidates for tyranny too often find auxiliaries in those classes of society who are at length brought to regard absolute monarchy as an asylum; for, wherever property is not allowed a great weight in a free state, it will destroy liberty. In either case, too, the inconstant rabble follow their leader with as loud acclamations to the Dictator's seat, as when he led them against the Senate. They delight in the power of him who seems to be their own work. The history of popular clamour, even in England, is enough to show that it is easy sometimes to work the populace into 'a sedition for slavery.'

These obvious consequences have disposed most advocates of Universal Suffrage to propose its combination with some other ingredients, by which, they tell us, that the poison will be converted into a remedy. The composition now most in vogue is its union with a Ballot. Before we proceed to the consideration of that proposal, we shall bestow a few words on some other plans which have been adopted or proposed, to render uniform popular election consistent with public quiet. The most remarkable of these are that of Mr Hume, where the freeholders and the inhabitants assessed to the poor, elect those who are to name the members of the Supreme Council;—that lately proposed in France, where a popular body would propose candidates, from whom a small number of the most considerable proprietors would select the representatives;—and the singular plan of Mr Horne Tooke, which proposed to give the right of voting to all persons rated to the land-tax or parish-rates at 2*l.* 2s. per annum, on condition of their paying to the public 2*l.* 2s. at the time of voting; but providing, that if the number of voters in any district fell short of four thousand, every man rated at 20*l.* per annum might give a second vote, on again paying the same sum; and making the same provision, in case of the same failure, for third, fourth, fifth, &c. votes for every ad-

ditional 100*l.* at which the voter is rated, till the number of four thousand votes for the district should be completed.

This plan of Mr Tooke is an ingenious stratagem for augmenting the power of wealth, under pretence of bestowing suffrage almost universally. To that of Mr Hume it is a decisive objection, that it leaves to the people only those subordinate elections which would excite no interest in their minds, and would consequently fail in attaining one of the principal objects of popular elections. All schemes for separating the proposition of candidates for public office from the choice of the officers, become in practice a power of nomination in the proposers. It is easy to leave no choice to the electors, by coupling the favoured candidates with none but such as are absolutely ineligible. Yet one reasonable object is common to these projects. They all aim at subjecting elections to the joint influence of property and popularity. In none of them is overlooked the grand principle of equally securing all orders of men, and interesting all in the maintenance of the Constitution. It is possible that any of them might be in some measure effectual; but it would be an act of mere wantonness in *us* to make the experiment. By that variety of rights of suffrage which seems so fantastic, the English Constitution has provided for the union of the principles of property and popularity, in a manner much more effectual than those which the most celebrated theorists have imagined. Of the three, perhaps the least unpromising is that of Mr Tooke, because it approaches nearest to the forms of public and truly popular elections.

In the system now established in France, where the right of suffrage is confined to those who pay direct taxes amounting to twelve pounds by the year, the object is evidently to vest the whole power in the hands of the middling classes. The Royalists, who are still proprietors of the greatest estates in the kingdom, would have preferred a greater extension of suffrage, in order to multiply the votes of their dependants. But, as the subdivision of forfeited estates has created a numerous body of small land-owners, who are deeply interested in maintaining the new institutions, the law, which gives them almost the whole elective power, may on that account be approved as politic. As a general regulation, it is very objectionable.

If we were compelled to confine all elective influence to one order, we must indeed vest it in the middling classes; both because they possess the largest share of sense and virtue, and because they have the most numerous connexions of interest with the other parts of society. It is right that they should have a preponderating influence, because they are likely to make the best choice.

But that is not the sole object of representation; and, if it were, there are not wanting circumstances which render it unfit that they should engross the whole influence. Perhaps there never was a time or country in which the middling classes were of a character so respectable and improving as they are at this day in Great Britain; but it unfortunately happens, that this sound and pure body have more to hope from the favour of Government, than any other part of the nation. The higher classes may, if they please, be independent of its influence. The lower are almost below its direct action. On the middling classes, it acts with concentrated and unbroken force. Independent of that local consideration, the virtues of that excellent class are generally of a circumspect nature, and apt to degenerate into timidity. They have little of that political boldness which sometimes belongs to commanding fortune, and often, in too great a degree, to thoughtless poverty. They require encouragement and guidance from higher leaders; and they need excitement from the numbers and even turbulence of their inferiors. The end of representation is not a medium between wealth and numbers, but a combination of the influence of both. It is the result of the separate action of great property, of deliberate opinion, and of popular spirit, on different parts of the political system.

'That principle of representation,' said Mr Fox, 'is the best which calls into activity the greatest number of independent votes, and excludes those whose condition takes from them the powers of deliberation.' But even this principle, true in general, cannot be universally applied. Many who are neither independent nor capable of deliberation, are at present rightly vested with the elective franchise,—not because they are qualified to make a good general choice of members,—but because they indirectly contribute to secure the good composition and right conduct of the Legislature. *

* Even Mr Bentham admits a principle of exception to the universality of suffrage. Wherever any class wants 'the appropriate intellectual aptitude,' he admits that they may be excluded, 'without prejudice to the interest-comprehension principle.' It follows also, that they may be excluded if they want morality, and if they want the capacity to choose the best guides, or the disposition to follow the wisest counsel. He hesitates about the admission of female electors. Not surely because women want sense or virtue, nor chiefly for their dependence—but for domestic peace, for the sake of the duties of their sex—of the character best adapted to the performance of those duties. He proposes also to exclude those who cannot read. If he confines suffrage to males, he must admit that multitudes of persons well

The question of Ballot remains. On ballot the advocates of Universal Suffrage seem exclusively to rely for the defence of their scheme. Without ballot, they appear tacitly to admit that Universal Suffrage would be an impracticable and pernicious proposal. But all males in the kingdom, it is said, may annually vote at elections with quiet and independence, if a ballot enables them to give their votes secretly. Whether this expectation be reasonable, is the question on which the decision of the dispute seems now to depend.

The first objection to this proposal is, that ballot would not produce secrecy. Even in those classes of men who are most accustomed to keep their own secret, the effect of ballot is very unequal and uncertain. The common case of clubs, in which a small minority is generally sufficient to exclude a candidate, may serve as an example. Where the club is numerous, the secret may be kept, as it is difficult to distinguish the few who reject; but in small clubs, where the dissentients may amount to a considerable proportion of the whole, they are almost always ascertained. The practice, it is true, is, in these cases, still useful; but it is only because it is agreed by a sort of tacit convention, that an exclusion by ballot is not a just cause of offence. It prevents quarrel, not disclosure. In the House of Commons, Mr B. allows that ballot does not secure secrecy or independent choice. The example of the elections at the India House, is very unfortunately selected. For every thing which a ballot is supposed to prevent is to be found in these elections:—public and private canvass, the influence of personal friendship, connexion, gratitude, expectation; promises almost universally made and observed; votes generally if not always known; as much regard, indeed, to public grounds of preference as in

qualified to make a good choice, may be excluded for the sake of other interests of society. The non-readers must be excluded; either, 1*st*, for a presumed incapacity in the ignorant to choose well; or, 2*dly*, to induce the people to acquire knowledge. Either of these principles would let in many other exclusions, in our opinion far too extensive. Against the second we altogether protest. We would exclude no man merely as a probable means of promoting improvement. Mr B., on this one occasion, takes into his account 'collateral effects.' Had he considered the secondary consequences of political institutions with the same care as he has done those of criminal acts, we cannot think it possible that we should have dissented so widely from his opinion. The consideration of 'collateral effects' might have prevented some suggestions (p. 98) which only Mr B.'s enemies will ever quote without necessity.

most other bodies; but scarcely any exclusion of private motives, unless it be the apprehension of incurring resentment, which is naturally confined within narrow limits, by the independent condition of the greater part of the electors. In general, indeed, they refuse the secrecy which the Legislature seems to tender to them. From kindness, from esteem, from other motives, they are desirous that their votes should be known to candidates whom they favour: and what is disclosed to friends, is speedily discovered by opponents.

If the ballot should be thought a less offensive mode of voting against an individual than the voice, this slight advantage is altogether confined to those classes of society who have leisure for such fantastic refinements. In these cases, indeed, the efficacy of ballot is counteracted by obvious causes. But are none such likely, or rather sure, to act on the two millions of voters who would be given to us by universal suffrage? Let us examine them closely. Will the country labourer ever avail himself of the proffered means of secrecy? To believe this, we must suppose that he performs the most important act of his life, that which most flatters his pride, and gratifies his inclination, without speaking of his intention before, or boasting of his vote when he has given it. His life has no secrets. The circle of his village is too small for concealment. His wife, his children, his fellow-labourers, the companions of his recreations, know all that he does, and almost all that he thinks. Can any one believe that he would pass the evening before, or the evening after the day of election, at his alehouse, wrapt up in the secrecy of a Venetian senator, and concealing a suffrage as he would do a murder? If his character disposed him to secrecy, would his situation allow it? His landlord, or his employer, or their agents, or the leaders of a party in the election, could never have any difficulty in discovering him. The simple acts of writing his vote, of delivering it at the poll, or sending it if he could not attend, would betray his secret in spite of the most complicated ballot ever contrived in Venice. In great towns, the very mention of secret suffrage is ridiculous. By what contrivance are public meetings of the two hundred and fifty thousand London electors to be prevented? There may be quiet and secrecy at the poll; but this does not in the least prevent publicity and tumult at other meetings occasioned by the election. A candidate will not forego the means of success which such meetings afford. The votes of those who attend them must be always known. If the Venetian Council of Ten were dispersed among a Westminster mob while candidates were speaking, they would catch its spirit, and betray their votes by huzzas and hisses. Candidates and their partisans, committees in parishes, agents

in every street during an active canvass, would quickly learn the secret of almost any man in Westminster. The few who affected mystery would be detected by their neighbours. The evasive answer of the ablest of such dissemblers to his favoured friend or party, would be observably different, at least in tone and manner, from that which he gave to the enemy. The zeal, attachment and enthusiasm, which must prevail in such elections, as long as they continue really popular, would probably bring all recurrence to means of secrecy into discredit, and very speedily into general disuse. Even the smaller tradesmen, to whom ballot might seem desirable, as a shield from the displeasure of their opulent customers, would betray the part they took in the election, by their ambition to be leaders in their parishes. The formality of a ballot might remain: But the object of secrecy is incompatible with the nature of such elections.

The *second* objection is, that if secrecy of suffrage could be really adopted, it would, in practice, contract, instead of extending, the elective franchise, by abating, if not extinguishing, the strongest inducements to its exercise. All wise laws contain in themselves effectual means for their own execution; but, where votes are secret, scarcely any motive for voting is left to the majority of electors. In a blind eagerness to free the franchise from influence, nearly all the common motives for its exercise are taken away. The common elector is neither to gain the favour of his superiors, nor the kindness of his fellows, nor the gratitude of the candidate for whom he votes. From all these, secrecy must exclude him. He is forbidden to strengthen his conviction, to kindle his zeal, to conquer his fears or selfishness, in numerous meetings of those with whom he agrees; for, if he attends such meetings, he must publish his suffrage—and the ballot, in his case, becomes altogether illusory. Every blameable motive of interest, every pardonable inducement of personal partiality, are, indeed, taken away. But what is left in their place? Nothing but a mere sense of public duty, unaided by the popular discipline which gives fervour and vigour to public sentiments. A wise lawgiver does not trust to a general sense of duty in the most unimportant law. If such a principle could be trusted, laws would be unnecessary. Yet to this cold feeling, stripped of all its natural and most powerful aids, would the system of secret suffrage alone trust for its execution. At the poll it is said to be sufficient, because all temptations to do ill are supposed to be taken away. But the motives by which electors are induced to go to a poll, have been totally overlooked. The inferior classes, for whom this whole system is contrived, would, in its practice, be speedily

disfranchised. They would soon relinquish a privilege when it was reduced to a troublesome duty. Their public principles are often generous; but they do not arise from secret meditation, and they do not flourish in solitude.

Lastly, If secret suffrage were to be permanently practised by all voters, it would deprive election of all its popular qualities, and of many of its beneficial effects. The great object of popular elections is, to inspire and strengthen the love of liberty. On the strength of that sentiment freedom wholly depends, not only for its security against the power of time and of enemies, but for its efficiency and reality while it lasts. If we could suppose a people perfectly indifferent to political measures, and without any disposition to take a part in public affairs, the most perfect forms and institutions of liberty would be among them a dead letter. The most elaborate machinery would stand still for want of a moving power. In proportion as a people sinks more near to that slavish apathy, their constitution becomes so far vain, and their best laws impotent. Institutions are carried into effect by men, and men are moved to action by their feelings. A system of liberty can be executed only by men who love liberty. With the spirit of liberty, very unpromising forms grow into an excellent Government. Without it, the most specious cannot last, and are not worth preserving. The institutions of a free State are safest and most effective, when numerous bodies of men exercise their political rights with pleasure and pride—consequently with zeal and boldness,—when these rights are endeared to them by tradition, and by habit, as well as by conviction and feeling of their inestimable value,—and when the mode of exercising privileges is such as to excite the sympathy of all who view it, and to spread through the whole society a jealous love of popular right, and a proneness to repel with indignation every encroachment on it.

Popular elections contribute to these objects, partly by the character of the majority of the electors, and partly by the mode in which they give their suffrage. Assemblies of the people of great cities, are indeed very ill qualified to exercise authority; but without their occasional use, it can never be strongly curbed. Numbers are nowhere else to be collected. On numbers alone, much of their power depends. In numerous meetings, every man catches animation from the feelings of his neighbour, and gathers courage from the strength of a multitude. Such assemblies, and they alone, with all their defects and errors, have the privilege of inspiring many human beings with a perfect, however transient, disinterestedness, and ren-

dering the most ordinary men capable of foregoing interest, and forgetting self, in the enthusiasm of zeal for a common cause. Their vices are a corrective of the deliberating selfishness of their superiors. Their bad, as well as good qualities, render them the portion of society the most susceptible of impressions, and the most accessible to public feelings. They are fitted to produce that democratic spirit which, tempered in its progress through the various classes of the community, becomes the vital principle of liberty. It is very true, that the occasional absurdity and violence of these meetings, often alienate men of timid virtue from the cause of Liberty. It is enough for the present purpose, that in those long periods to which political reasonings must always be understood to apply, they contribute far more to excite and to second, than to offend or alarm, the enlightened friends of the rights of the people. But meetings for election are by far the safest and the most effective of all popular assemblies. They are brought together by the Constitution;—they have a legal character;—they display the ensigns of public authority;—they assemble men of all ranks and opinions;—and, in them, the people publicly and conspicuously bestow some of the highest prizes pursued by a generous ambition. Hence they derive a consequence, and give a sense of self-importance, to their humblest members, which would be vainly sought for in spontaneous meetings. They lend a part of their own seriousness and dignity to other meetings occasioned by the election, and even to those which, at other times, are really, or even nominally, composed of electors.

In elections, political principles cease to be mere abstractions. They are embodied in individuals; and the cold conviction of a truth, or the languid approbation of a measure, is animated by attachment for leaders, and hostility to adversaries. Every political passion is warmed in the contest. Even the outward circumstances of the scene, strike the imagination, and affect the feelings. The recital of them daily spreads enthusiasm over a country. The various fortunes of the combat excite anxiety and agitation on all sides; and an opportunity is offered of discussing almost every political question, under circumstances where the hearts of hearers and readers take part in the argument: and the issue of a controversy is regarded by the nation with some degree of the same solicitude as the event of a battle. In this manner is formed democratical ascendency, which is most perfect when the greatest numbers of independent judgments influence the measures of Government. Reading may, indeed, increase the number and intelligence of those whose sentiments compose public opinion; but numerous assem-

blies, and consequently popular elections, can alone generate the courage and zeal which form so large a portion of its power.

With these effects it is apparent that secret suffrage is absolutely incompatible. They cannot exist together. Assemblies to elect, or assemblies during elections, make all suffrages known. The publicity and boldness in which voters give their suffrage are of the very essence of popular elections, and greatly contribute to their animating effect. The advocates of ballot tell us, indeed, that it would destroy canvass and tumult. But after the destruction of canvass, elections would no longer teach humility to the great, nor self-esteem to the humble. Were the causes of tumult destroyed, elections would no longer be nurseries of political zeal, and instruments for rousing national spirit. The friends of liberty ought rather to view the turbulence of the people with indulgence and pardon, powerfully tending to exercise and invigorate their public spirit. It is not to be extinguished, but to be rendered safe by countervailing institutions of an opposite tendency in other parts of the constitutional system.

The original fallacy, which is the source of all erroneous reasoning in favour of ballot, is the assumption that the value of popular elections chiefly depends on the exercise of a deliberate judgment by the electors. The whole anxiety of its advocates is to remove the causes which might disturb a considerate choice. In order to obtain such a choice, which is *not* the great purpose of popular elections, the speculators would deprive them of the power to excite and diffuse *public spirit*,—the great and inestimable service which a due proportion of such elections renders to a free State. In order to make the forms of democracy universal, their plan would universally extinguish its spirit. In a commonwealth where Universal Suffrage was already established, ballot might perhaps be admissible as an expedient for tempering such an extreme democracy. Even there, it might be objected to, as one of those remedies for licentiousness which are likely to endanger liberty by destroying all democratic spirit. It would be one of those dexterous frauds by which the people are often weaned from the exertion of their privileges.

On the frequency of elections we have left ourselves no room to dwell at present. They may be too frequent for exciting universal attention and national sympathy. Whatever is very frequent becomes familiar. It is viewed with little interest, and done with no spirit. We subjoin the following argument against annual election from an unpublished work of Mr Bentham which we have the good fortune to possess,—not for the

puerile purpose of charging him with inconsistency, but because it contains unanswerable reasoning conveyed in clear and precise language.

'Next to the having no periodical elections, is the having them as frequent as possible. Why? Because, the oftener they come round, the less the danger is of a change. As the mischiefs of changing so often as you might change are so palpable, and as you see no more reason for changing one time than another, you even take things as they are, and enter into a sort of implicit engagement with yourself not to change at all.

'This is no speculative conjecture: it is but a key to facts offered by experience. In England, wherever regular succession is not the object, * annual elections prove in effect appointments for life, subject only to a periodical power of a motion which is rarely exercised: † while longer terms produce frequent changes, and still more frequent struggles. ‡ (Remarks on the Judicial Establishments in France, chap. 5. title 3.)'

Rotation, or temporary exclusion, after a certain period, are contrivances easily evaded; and they undistinguishingly exclude the wise and the foolish, the honest and the corrupt. Talent and virtue are too rare for such plans. To reject the benefit of experience, must always be unwise. It is vain to answer, that if, by annual elections, the same members were to have seats for life, it would be a proof that the people approved their public conduct. There would be much oftener an acquiescence from the evil of frequent contest, than a continued preference of political merit. We may add, that in Parliamentary elections, some change of members, more risk of change, and considerable contest, are in themselves advantageous to public liberty.

We must reserve for a future occasion such thoughts as have occurred to us on those plans of Constitutional Reform which might gradually unite the most reasonable Friends of Freedom, and of which we should not be without hope, that some part might one day be adopted under the conduct of a firm as well as liberal Government, and when almost all reformers shall have openly renounced those extravagant opinions which supply the champions of abuse with the most effective weapons.

We close with a few words on a subject to which Mr Bentham has frequently adverted—the example of the United States of America. The system which we oppose is established in

* Examples: Lord Mayor of London: Sheriffs of London.

† Examples: Chamberlain of London: Chairman of the Justices of the Peace for Middlesex: President of the Royal Society—(to which may be added, the Common Council of London.)

‡ Examples: Member of Parliament.

that Republic,—and it is said to be attended with no mischievous effects.

To this we answer, that, in America, Universal Suffrage is not the rule, but the exception. In twelve out of the nineteen States which compose that immense Confederacy, the disgraceful institution of Slavery deprives great multitudes not only of political franchises, but of the indefeasible rights of all mankind. The numbers of representatives of the Slave States in Congress is proportioned to their population, whether slaves or freemen; a provision arising, indeed, from the most abominable of all human institutions, but recognising the just principle, that property is one of the elements of every wise representation. In many, the white complexion is a necessary qualification for suffrage; and the disfranchised are separated from the privileged order by a physical boundary, which no individual can ever pass. In countries of slavery, where to be free is to be noble, the universal distribution of privilege among the ruling caste, is a natural consequence of the aristocratical pride with which each man regards the dignity of the whole order, especially when they are all distinguished from their slaves by the same conspicuous and indelible marks. Yet, in Virginia, which has long been the ruling State of the Confederacy, even the citizens of the governing class cannot vote without the possession of a freehold estate. A real or personal estate is required in New England, the ancient seat of the character and spirit of America; the parent of those seamen, who, with a courage and skill worthy of our common forefathers, have met the followers of Nelson in war; the nursery of the intelligent and moral, as well as hardy and laborious race, who now annually colonize the vast regions of the West.

But were the fact otherwise.—America contains few large, and no very great towns;—the people are dispersed, and agricultural;—and, perhaps, a majority of the inhabitants are either land-owners, or have that immediate expectation of becoming proprietors, which produces nearly the same effect on character with the possession of property. Adventurers who, in other countries, disturb society, are there naturally attracted towards the frontier, where they pave the way for industry, and become the pioneers of civilization. There is no part of their people in the situation where democracy is dangerous, or even usually powerful. The dispersion of the inhabitants, their distance from the scene of great affairs, are perhaps likely rather to make the spirit of liberty among them languid, than to rouse it to excess. The majority are in the condition which is elsewhere considered as a pledge of independence, and a qualifica-

tion for suffrage. They have no populace; and the greater part of them are either landholders, or just about to be so. No part, then, of the preceding argument is inconsistent with the example of America, even were Universal Suffrage established there.

In what manner the present Elective system of America may act, at the remote period when the progress of society shall have conducted that country to the crowded cities and unequal fortunes of Europe, no man will pretend to foresee, except those whose presumptuous folly disables them from forming probable conjectures on such subjects. If, from the unparalleled situation of America, the present usages should quietly prevail for a very long time, they may insensibly adapt themselves to the gradual changes in the national condition, and at length be found capable of subsisting in a state of things to which, if they had been suddenly introduced, they would have proved irreconcileably adverse. In the thinly peopled States of the West, Universal Suffrage itself may be so long exercised without the possibility of danger, as to create a national habit which may be strong enough to render its exercise safe in the midst of an indigent populace. In that long tranquillity it may languish into forms, and these forms may soon follow the spirit. For a period far exceeding our foresight, it cannot affect the confederacy further than the effect which may arise from very popular elections in a few of the larger western towns. The interior order of the country where it is adopted, will be aided by the compression of its former and more compact confederates. It is even possible that the extremely popular system which prevails in some American elections, may, in future times, be found not more than sufficient to counterbalance the growing influence of wealth in the South, and the tendencies towards Toryism which are of late perceptible in New England. The operation of different principles on elections, in various parts of the Continent, may even now be discerned. Some remarkable facts have already appeared. In the state of Pennsylvania, we have * a practical proof that ballot is not attended with secrecy. We also know, † that committees composed of the leaders of the federal and democratic parties, instruct their partisans how they are to vote at every election; and that in this manner the leaders of the democratic party who now predominate in their *Caucus* ‡ or Com-

* Fearon, 138, &c. How could this intelligent writer treat the absence of tumult, in such a city and country, as bearing any resemblance to the like circumstance in Europe?

† Id. 320.

‡ The following account of this strange term, will show its proba-

mittee at Washington, do in effect nominate to all the important offices in North America. Thus, we already see combinations formed, and interests arising on which the future government of the Confederacy may depend more than on the forms of election, or the letter of its present laws. Those who condemn the principle of party, may disapprove these associations as unconstitutional. To us who consider parties as inseparable from liberty, they seem remarkable as examples of those undesigned and unforeseen correctives of inconvenient laws which spring out of the circumstances of society. The election of so great a magistrate as the President, by great numbers of electors, scattered over a vast continent, without the power of concert, or the means of personal knowledge, would naturally produce confusion, if it were not tempered by the confidence of the members of both parties in the judgment of their respective leaders. The permanence of these leaders, slowly raised by a sort of insensible election to the conduct of parties, tends to counteract the evil of that system of periodical removal, which is peculiarly inconvenient in its application to important executive offices. The internal discipline of parties may be found to be a principle of subordination of great value in Republican Institutions. Certain it is, that the affairs of the United States have hitherto been generally administered, in times of great difficulty and under a succession of Presidents, with a forbearance, circumspection, constancy and vigour, not surpassed by those commonwealths who have been most justly renowned for the wisdom of their councils. The only disgrace or danger which we perceive impending over America, arises from the execrable

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ble origin, and the long-experienced efficacy of such an expedient for controlling ballot—'About the year 1738, the father of Samuel 'Adams, and twenty others who lived in the North or Shipping part 'of Boston, used to meet, to make a *Caucus*, and lay their plan for 'introducing certain persons into places of trust. Each distributed 'the ballots in his own circle, and they generally carried the election. 'In this manner Mr S. Adams first became representative for Bos-'ton.—*Caucusing* means electioneering.'—*I. Gordon, Hist. Am. Revol. p.* 216, *Note. London*, 1788.

It is conjectured, that as this practice originated in the Shipping Part of Boston, 'Caucus' was a corruption of Caulkers Meeting.—For this information we are indebted to Pickering's American Vocabulary, (Boston, 1816); a modest and sensible book, of which the principal fault is, that the author ascribes too much importance to some English writers, who are not objects of much reverence to a near observer. Mr Pickering's volume, however, deserves a place in English libraries.

institution of Slavery—the unjust disfranchisement of free Blacks—the trading in slaves carried on from State to State—and the dissolute and violent character of those adventurers, whose impatience for guilty wealth spreads the horrors of slavery over the new acquisitions in the South.* Let the Lawgivers of that Imperial Republic deeply consider how powerfully these disgraceful circumstances tend to weaken the love of Liberty; the only bond which can hold together such vast territories, and therefore the only source and guard of the tranquillity and greatness of America.

ART. IX. *Returns of Prosecutions and Convictions for Forging Notes of the Bank of England, from* 1783 *to* 1818; *laid before the House of Commons,* 21*st April* 1818.

IN former ages, the debasement of the coin, by authority of the Sovereign, was one of the favourite resources of needy governments; and the same destructive practice still prevails in the despotic countries of the East. The ignorance of profuse and rapacious barbarians, prevents them from seeing any part of this process beyond the first step. They are incapable of perceiving, that the money price of all other commodities immediately rises with the decrease in the value of their coin; that the same apparent revenue will no longer command the same quantity of produce; and that, both as a government, and as the largest dealers and consumers, they will ultimately suffer from that confusion, want of mutual confidence, and general uncertainty in all incomes, debts, and undertakings, which are the necessary consequences of sudden alterations in the value of money.

In more modern times, this expedient of bankrupt barbarism has been generally relinquished: But, since the common use of paper currency, means have been found of perverting, for the like mischievous purposes, that invention, which, when it is regulated by true principles, is one of the most useful, as well as beautiful contrivances of human ingenuity. A paper money, not exchangeable at the pleasure of the holder for gold or silver, is an expedient in which the same ends are pursued, and the same evils are incurred, as in the debasement of metallic money. When the over-issue which such an incon-

* See Mr Fearon's Account of the Slave Trade on the Mississippi, and his frightful extracts from the newspapers of New Orleans.

vertible paper never fails to produce, necessarily diminishes its real value, at the same time that, directly or indirectly, individuals are obliged to receive it according to its former denomination; the effect is precisely the same with the tyrannical operations on coin, which are now cited as proofs of the ignorance and barbarism of the darkest ages. A bank note which will purchase only sixteen shillings worth of silver, but is forced upon all dealers at twenty, is in the same situation with a sovereign which we might be compelled to receive at twenty-five shillings, by proclamation or statute. The evils of such a paper, in the American and French revolutions; the mischiefs experienced from its more limited use in the absolute monarchies of the Continent at this moment; are too well known to require enumeration.

The stoppage of payment by the Bank of England, was a measure which originated in a fatal panic; but of which the continuance has undoubtedly arisen in experience of its convenience to Government, and profitableness to the Bank. No man in Europe, whose name could be quoted without absurdity, now doubts that the principles of the Bullion Committee in 1810 are true. If any man were now to propose to a public assembly a resolution, that Bank notes were '*held, in public estimation, to be equivalent to the legal coin of the realm*;' * the only serious answer to such an assertion would be, to ask the meaning of his words.

It must, however, be owned, that the evils of inconvertible paper money have been mitigated, in this country, by long experience of great monied transactions—by ancient habits of commercial confidence—by thorough knowledge of the importance of mutual support—by a sort of mechanical reliance on a Bank paper which had stood the test of a century, and which, in its new state, retained a great part of the credit which it had gained by being so long exchangeable at pleasure—by the watchful guard of public opinion—and by those wholesome discussions in Parliament, of which the usefulness is best established by the clamours which the Treasury and the Bank never failed to raise against them. All these aids and controls, though inadequate substitutes for convertibility, must be allowed to have limited the range of the evil. But it is not the less true, that for twenty-one years the whole moneyed transactions of this empire have been at the discretion of a Banking Company; and that, as the amount of their profits depends on the magnitude of their issues, they have been tempted by the laws to make the most destructive exercise of their power. It is also evident, that as

* Comm. Journ. 15th May 1811.

we and our posterity must pay in gold and silver the interest of loans made in depreciated paper, we must long bear the burden of the most gigantic system of Usury ever practised by a spend-thrift Government.

It is observable, that England, which has escaped, though narrowly, that national ruin which has usually followed compulsory paper, should, on the other hand, exhibit, in a greater degree than any other country, its fatal efficacy in tempting the indigent to the perpetration of crimes. To counterfeit Bank notes was, indeed, made a capital felony before any other species of forgery; but, till the stoppage of the Bank, it was an infrequent offence. Before we make any observations on the moral revolution which followed the stoppage, we entreat the attention of every reader who considers the prevention of crimes as any part of the object of Government, to the following authentic and extraordinary documents.

" No. 1.

" An Account of the Number of Persons prosecuted for Forging Notes of the Governor and Company of the Bank of *England*, and for uttering such Notes knowing them to be forged; during the 14 Years *preceding* the Suspension of Cash Payments by the Bank in February 1797, distinguishing the Years.

YEAR.	CAPITAL CONVICTIONS.	ACQUITTALS	TOTAL
1783	nil.	—	—
1784	2	—	2
1785			
1786	nil.	—	—
1787			
1788	1	—	1
1789	—	1	1
1790			
1791			
1792			
1793	nil.	—	—
1794			
1795			
1796			

" No. 2.

" An Account of the Number of Persons prosecuted for Forging Notes of the Governor and Company of the Bank of *England*, and for knowingly uttering or possessing such Forged Notes, knowing them to be Forged, *since* the Suspension of Cash Pay-

ments by the Bank, in February 1797, to the 25th of February 1818; distinguishing the Years, and the Numbers Convicted and Acquitted.

YEAR.	CAPITAL CONVICTIONS.	CONVICTIONS for having Forged Bank Notes in possession.	ACQUITTALS.	TOTAL Number Prosecuted.
1797	1	-	1	2
1798	11	-	1	12
1799	12	-	3	15
1800	29	-	15	44
1801	32	1	21	54
1802	32	12	19	63
1803	7	1	1	9
1804	13	8	4	25
1805	10	14	4	28
1806	-	9	1	10
1807	16	24	5	45
1808	9	23	2	34
1809	23	29	16	68
1810	10	16	3	29
1811	5	19	9	33
1812	26	26	12	64
1813	9	49	7	65
1814	5	39	3	47
1815	7	51	5	63
1816	20	84	16	120
1817	32	95	15	142
1818 to 25. Feb	4	21	1	26
	Total 313			Total 998

" 21*st April* 1818. " *Joseph Kaye*,
Sol^r to the Bank of England."

The tables which follow are framed from a return not laid before the House of Commons till after the discussions on the subject of forgery were concluded. This important return is 'An Abstract of Capital Convictions and Executions in London and Middlesex from 1749 to 1817 inclusive, with a statement of the offences.' Before 1749 we have no regular information. We have no account of the same nature relating to the capital convictions and executions in the country till 1805, since which time an account of the criminal proceedings at the Assizes and Sessions has been, and now by law must be, annually laid before Parliament. In the Return from London and Middlesex,

the counterfeiting of bank-notes is not distinguished from other forgeries. But the above return, No. 1, from the Bank of England, shows the number of capital convictions from 1783 to 1797, on prosecutions for the forgery of their notes, to have been *three*.

No. 3. exhibits the whole number of executions, for every species of forgery, in the years between 1783 and 1797 in London and Middlesex; taken from "The Abstract."

"No. 3.

Year.	No. of Executions.	Year.	No. of Executions.
1783	5	Brought up	24
1784	3	1791	2
1785	4	1792	3
1786	3	1793	2
1787	4	1794	1
1788	1	1795	6
1789	1	1796	4
1790	3		
Carry up	24	Total	42

Though we do not know the executions throughout England, for all forgeries, at that time; we know that there were only three for counterfeiting bank-notes: And we shall hardly underrate the proportion of Bank prosecutions to the whole, if we divide the 42 executions for forgery which we know to have then taken place in London and Middlesex, by the three executions for forging bank-notes, which are ascertained to have occurred in the same period in every part of England. Without increasing the dividend by the addition of any supposed number of executions for the country, the executions for forging bank-notes will be to those for the crime of forgery in general, as one to fourteen.

No. 4. contains an account of executions, for all forgeries, in the capital, from 1749 to 1782; taken from "the Abstract."

"No. 4.

Year.	No. of Executions.	Year.	No. of Executions.
1749	2	Brought up	24
1750	3	1756	1
1751	7	1757	5
1752	7	1758	3
1753	3	1759	1
1754	2	1760	0
1755	0	1761	6
Carry up	24	Carry forward	40

Year.	No. of Executions.
Brought forward	40
1762	4
1763	0
1764	0
1765	0
1766	1
1767	1
1768	0
1769	0
1770	0
1771	1
1772	2
Carry up	49

Year.	No. of Executions.
Brought up	49
1773	1
1774	0
1775	3
1776	8
1777	1
1778	1
1779	3
1780	2
1781	1
1782	0
Total	69

On this subject we have no separate accouut of the number of convictions for the forgery of bank-notes. If the proportion of Bank forgeries, to forgeries in general, be supposed to be the same throughout this period, as that which seems to be the result of the document No. 3, namely, one to fourteen, it would follow that the whole number of persons who suffered death for forgeries on the Bank, from 1749 to 1797, amounted only to *eight*. Though fourteen years be a time long enough for a reasonable inference; and though we have waived the advantage which the argument would receive from the addition of a probable number for country executions; yet, as the proportions may have varied at different times, we shall double, or, if the reader pleases, treble these executions,—and suppose that sixteen, or even twenty-four * persons had suffered death for counterfeiting bank-notes in the half century which preceded the stoppage of payment by the Bank of England.—Yet even this number, inconsiderable as it now appears, was sufficient at that time to excite the disapprobation of wise, and the indignation of good men, against laws which inflicted death on such a crime as forgery, and offered human sacrifices to the Moloch of Paper Credit. But these executions were at least efficacious. Punishment invariably followed the proof of guilt. The time was not yet come when the number

* The number of executions in London and Middlesex, for forgery, from 1749 to 1782, is stated by Sir Theodore Janson's Abstract, published by Mr Howard, to have been 71; while the Parliamentary Abstract makes them only 46. This is the more singular, because in the annual number of executions for all offences they nearly agree. We prefer the authority of the Parliamentary Return, because it gives the annual number of executions for forgery, of which Sir T. Janson states only the sum-total.

of convictions rendered the uniform execution of the law too horrible to be hazarded. Criminal justice had not become a lottery, in which it was a mere chance whether a man guilty of forgery should escape being transported or be hanged. The guilty were generally persons above the ordinary condition, whose tale grew into a sort of popular tragedy; and as the circumstances of their death were often very affecting, the example became in the same proportion terrible. The class of men then generally convicted, susceptible of shame, and not insensible to danger, were peculiarly likely to be deterred by the punishment. The principals were usually detected; and the combination of deliberate fraud with considerable pecuniary advantage, deadened the feelings of the public for their fate.

The year 1798 opened a new scene. The act for authorizing the Bank of England to stop payment, passed in 1797; and another act was passed in the same year, the necessary consequence of the former, but still more directly applicable to our present purpose—to enable the Bank to issue notes under the value of five pounds. The number of those who suffered death for the forgery of bank-notes *in* 1798 *and the two succeeding years*, was twice or thrice as great as that of all who had suffered for the same offence for fifty years before the Suspension. From a return of '*nil*,' in the eight years before 1797, we suddenly pass to a return of a hundred and forty-six capital executions, for this offence, in the eight years which followed that unfortunate year! From three executions in the fourteen years before the Suspension, the number becomes two hundred and nine in the fourteen after it. In the last twenty-one years of cash payment there were five or six executions for forgery. In the twenty-one which we have passed under the destroying power of compulsory paper, three hundred and thirteen persons have suffered death for counterfeiting bank-notes!

These frightful contrasts multiply at every change of our point of view. Four prosecutions for forgery by the Bank of England are to be found from 1783 to 1797. In the equal period from 1797 to 1811, the number is 469!—They were multiplied more than a hundred fold!—Well might the preamble of a statute passed in 1801, recite, that 'THE FORGERY OF BANK-NOTES HAS OF LATE INCREASED VERY MUCH IN THIS KINGDOM!'* but the preamble does not confess the whole truth.—Even at that time it was not an offence increased, but an offence created. One fatal measure of State had, even then, caused more blood

* 41 Geo. III. chap. 49.

to flow for forgery in three years than had been shed in England for that offence during fifty years before. Perhaps no civilized government has by one act given so dreadful a wound to the morality of a people. The visible connexion between the issue of small notes and the effusion of blood, is one of the most frightful parts of this case. Before 1797, the Bank could issue no notes under 5*l.*: In 1802, the average number of notes under that value was about three millions and a half. In the former periods there were no capital executions: In the latter, 116 occurred in four years. In 1817, there were 30,000 forged notes stopped at the Bank of 1*l.* and 2*l.*—900 of 5*l.*—50 of 10*l.*, and 2 of 20*l.* The whole crime is in truth imputable to the small notes. The forgery of the larger we are authorized, by the experience of the former period, entirely to ascribe to the habits of criminality which originated in the temptation of small notes.

We have been foolishly told that the increase (as it is called) of forgeries is only a part of the general progress of criminality. The sudden leap made by forgery in 1798, is a sufficient answer. There is no parallel case in any other crime or country. Other very dangerous crimes have diminished in the same period; and it is more reasonable to ascribe a great part of the increase of some other offences to the progress of that depravity to which the forgery of bank paper gave the first impulse.

It was at first supposed that some compensation for the increase of forgery might be found in the abatement of offences relating to the coin. The return of prosecutions by the Mint from 1783 to 1818, soon dispelled that illusion. The same persons then said, that forgery had augmented only in the same proportion with coining: And some have been so foolish as even lately to repeat this assertion. The same document will, it is to be hoped, silence them. In the seven years before the Suspension, the convictions for coining were 380. In the seven years which followed, they were 558. Instead of rising, like the forgeries, from 0 to 146, they augmented at a rate not much exceeding that of other crimes.

The various Returns which contain the above information, were not obtained without struggle. Much resistance was made to the production of many of them. More was threatened, and abandoned only on the eve of a division, when it was apparent that all resistance would prove vain. When a motion was made for a Parliamentary Committee to inquire whether any means could be devised to increase the difficulty of forging bank-notes, it was found no longer possible to resist investigation; and the Ministers contented themselves with substituting a commission under the Great Seal for a Committee

of the House of Commons. Whether they did well in this substitution, is no longer a practical question. The Commissioners were, in general, very well chosen. But though the Directors of the Bank are respectable men, and were in this inquiry indispensable witnesses, it is really an affront to common sense, that any of them should be named Commissioners to inquire into their own conduct.

We do not, of course, presume to know the proceedings, —the success, or the expectations of the Commissioners. It has been generally reported that they have had before them two or three hundred plans, including the rejected projects from the Bank; that a very small number of these plans have been thought to deserve serious consideration; and that, even of them, the most specious afford only a hope of diminishing the facility of forgery, though in what degree, and to what extent, can be ascertained by experiment alone. Whatever the result of their investigation may be, it cannot fail to be of great importance. If it should terminate in the discovery of a plan which offers a high probability of very considerably lessening the ease with which bank paper is now counterfeited, it will not only tend to stop the progress of crimes and the effusion of blood, but it will be one of the greatest improvements on a paper money, which, under all circumstances, must continue to form an important part of our circulation. If it should appear that there is no such probability of considerable abatement, it must be universally seen, and, we hope, will be authoritatively stated, that the resumption of cash payments is the only effectual remedy against the multiplication of forgeries,—which multiplied executions seem hitherto not in the least degree to have retarded,—and which must ultimately involve in general confusion all the dealings and transactions of men. In either of these cases, the duty of the Commissioners will be simple. Should they adopt a middle course, that duty will not be so easy. On questions which relate to degrees of probability and of efficacy, it is very difficult to form a just opinion; and far from easy to convey it, when formed, into the minds of other men. It requires the utmost caution and exactness of language to prevent misconceptions, which may be attended by the most fatal consequences. A slight exaggeration—a hope raised one degree above reason, may become a public misfortune. The Report of the Commissioners will affect the determination of the momentous question, whether cash payments are to be resumed. To the protection of a plan recommended by them, may, perhaps, be entrusted the property, the morals, the good order of

the kingdom. They are a Jury, on whose verdict the lives of multitudes of men may depend.

It must not be forgotten, that an improvement in bank paper, far short of what could be accepted as a substitute for cash payments, would be an object of the utmost public importance.—When that paper is restored to its original character, and once more rendered secure against the evil of excessive issue, it will still be liable to attacks from the other evil of forgery, which has arisen and become formidable during the fatal period when payments were not made in money. The former mischief may be immediately removed; but the effects of the latter must continue, in some degree, for some time. When we return to our ancient system, we ought to return to that part of it which consisted in the prohibition of the issue of notes under five pounds. The great body of forgeries consists in notes of one pound. In the last year they were about thirty thousand. But the crime created by these small notes has spread to the larger, which, when they circulated alone, can scarcely be said to have been forged at all. Five hundred forged notes, of ten pounds and upwards, appear to have been detected in the last year by the Bank. How many more never reached them, we cannot conjecture. They were probably numerous;—though we should be inclined to make a large deduction from the estimate of a respectable Member of Parliament, who said that *half* the Bank of England notes circulated in the three Northern Counties were forgeries. After the resumption, indeed, of cash payments, forgery of the large notes will be immediately limited by the skill and leisure of the class among whom they circulate, and by the facility of refusing paper when there is a power of procuring money. But in whatever degree the forgeries may be reduced, it will be of great importance to protect the paper against them, by improvements in its structure, especially for the time which must elapse before the habits of depravity produced by the Suspension shall be in a great measure worn out. We may reasonably hope that the labours of the Commissioners may discover such an improvement as may strengthen the natural securities of the large notes, after they are again rendered convertible into money.

To complete this view of the subject, we must conclude with a short account of the judicial proceedings relating to the forgery of bank notes since the dissolution of Parliament. During the Summer Assizes, we recollect no capital conviction for this crime. In the state of the public temper on this subject, the Bank seems to have thought it more prudent to prosecute only for the transportable offence, of knowingly possessing forged notes. In one case, a Jury acquitted a man charged with forgery,

against whom the Court, probably with reason, thought the evidence complete.

At the September Sessions at the Old Bailey, a long array of prosecutions for forgery reappeared, but attended with clear proofs that, on this subject, it was no longer safe to overlook the excited feelings of the public. Thirty-eight persons were arraigned on the capital charges of forging notes, or knowingly uttering them; and also on the minor charge of knowingly possessing them. A scene appears to have taken place among these wretched persons very unsuitable to the deliberation and gravity of a court of justice. Such was the general confusion, that one prisoner pleaded guilty to the capital charge, and not guilty to the inferior charge. Another confessed his guilt, retracted, and afterwards repeated his confession, and at last pleaded not guilty. As the trials advanced, the Juries began to manifest that they shared the general feeling of their countrymen. One Jury desired that the forgery of the signature to the note should be proved by the signing clerk whose name had been used, instead of the Bank inspector, whose evidence had hitherto been thought sufficient. On the next day, a Juryman declared that he was not satisfied by the affirmation of the witnesses that the notes were forgeries, and that he desired to ascertain how these witnesses knew them to be so. The ordinary course of the Bank had been to indict for the transportable as well as the capital offence; to forbear offering evidence to affect life against known forgers, who had pleaded guilty on the charge of knowingly possessing counterfeit notes; but to proceed to the last extremity against all who refused to own that they were guilty of that offence. On the 18th September, two women, in spite of the sincerely humane advice of the prosecutors and judges, refused to purchase life by the confession of their crimes. The first, a miserable prostitute, alleged that she had received the forged note from a man unknown to her;—one of those defences which might in her case be true, and yet impossible for her to prove. She was convicted.—Another woman, unappalled by this example, persevered in her plea of not guilty, and was acquitted. Had this woman accepted the proffered mercy of her prosecutors, we must now presume that she would have been unjustly transported. It became apparent, after her acquittal, that many innocent persons might have suffered that punishment; that the life or death of those who were charged with forgery, might often depend on their possessing nerves strong enough to encounter the danger of a capital trial; that bold guilt might often escape, and timid innocence frequently suffer. It is a melancholy consideration that, however undesignedly, the fear of

death may have been employed, in the administration of justice, to deter those who were conscious of no crime from proving that they were guiltless.

At the December Sessions, it was thought necessary to produce all the evidence of forgery which had been formerly called superfluous, and at last to permit the examination of the Bank witnesses respecting the grounds of their knowledge, which till that time had been generally understood to be interdicted. But the public feeling was now too deep to be conciliated by these concessions. In the face of all this evidence, two persons were acquitted, on the perfectly unimpeachable ground that the Jury did not believe the notes to be forgeries. From that moment the capital prosecutions were relinquished; and Juries, with the same, or very similar evidence, easily convicted several prisoners of the inferior offence. One other circumstance occurred during these last Sessions. Three prisoners, capitally convicted in September, and whose fate had remained in suspense during the intermediate three months, were executed immediately after the acquittals in December. These criminals, it must be observed, were convicted on that evidence, and under those restraints on examination, to which the prosecutors and judges seem, in the prosecutions in December, to have no longer adhered; and they were executed for forgery at the moment when capital prosecutions for that crime appeared, to say the least, to be suspended.

We have thus shortly recorded, and reminded the public of the proceedings which relate to a subject deeply connected with the reestablishment of the moneyed system, and with the principles of the Penal Code;—two most important objects, which have already interested the minds of the nation at large, and have the strongest claims on the deliberate consideration of Parliament.

ART. X. *Travels from Vienna through Lower Hungary; with some Remarks on the State of Vienna during the Congress, in the Year* 1814. By RICHARD BRIGHT, M. D. 4to. Edinburgh, Constable & Co. London, Longman & Co. 1818.

THIS is evidently the work of a very amiable and intelligent man, who has observed, with the utmost diligence, every thing remarkable that came within the sphere of his observation—and set down in his book, perhaps with too much minuteness, everything that he had so observed. We feel the most

perfect confidence, both in the fidelity of his representations, and in the fairness and intelligence with which his surveys have been conducted. But we think he has, on many occasions, overrated the value of the details he has collected; and thus rendered his work less attractive than it might easily have been made, if he had confined himself to a more rapid sketch of the extraordinary things he had seen, or a more summary statement of the knowledge he had acquired. Nothing else, we think, but such a compression of his materials, was necessary to render this book eminently agreeable and instructive:—for the narrative part is written throughout in a very lively and pleasing manner;—and the whole work is pervaded by a spirit not merely of humanity and good sense, but of cheerfulness and good humour, that renders us the willing companions of his adventures, and the patient listeners of the statistical lectures which, with a goodnatured earnestness, he sometimes obtrudes a little too lavishly on our notice.

The great theme of the book, as the title imports, is Hungary: of the agriculture, vineyards, flocks, dairies, mines, roads, castles and towns, of which we have a more full and particular account than could easily be furnished of most of the districts of England. There are two preliminary chapters about Vienna; which are the most lively, and, we should think, will be the most popular parts of the volume:—though the author probably regards them as far inferior in value to the more substantial discourses that follow. They contain a very good and interesting account of the Austrian capital, and the various institutions and establishments which it contains. But the gayest part of the picture is copied from a less permanent original—or derives at least no small share of its attraction from the peculiar traits which it borrowed from the memorable Congress of Sovereigns and Ministers which took place in that city in 1814—and made royalty for a while so common, that we could not pass through a crowd without jostling a monarch. Dr Bright came into contact with this distinguished crowd the very day after his arrival in Vienna, and has made a very striking picture of the scene which then presented itself. He went to a place called the Redoute, in company with an Austrian gentleman, and entered the room about nine o'clock in the evening.

'Never was an assembly less ceremonious; every one wore his hat; many, till the room became heated, their great coats; and no one pretended to appear in an evening dress, except a few Englishmen, who, from the habits of our country, and some little vanity, generally attempt to distinguish themselves by an attention to outward appearance. Around the whole circumference of the room were four or five rows of benches, occupied, for the most part, by well,

dressed females; while the other parts presented a moving multitude, many of whom were in masks, or in dominos, and were busily engaged in talking and laughing, or dancing to the music of a powerful orchestra. My companion squeezed my arm, as we passed a thin figure with sallow shrunken features, of mild expression, with a neck, stiff, bending a little forwards, and walking badly. "That is our Emperor." I shook my head and smiled. He was alone, and dressed like the rest. "Pray allow me to doubt a little till I have some farther proof."—"There, do you see that little man with white hair, a pale face, and aquiline nose? He was almost pushed down as he passed the corner;—that is the King of Denmark." Again I shook my head in disbelief. "Here the Emperor of Russia approaches." I looked up, and found the information true. His fine manly form, his round and smiling countenance, and his neat morning dress, were not to be mistaken; they were the same which, some months before, I had seen enter the church at Harlem, to the thundering peals of the grand organ. I soon recognised the tall form, the solemn and grave features, of the King of Prussia; and afterwards seeing these two in familiar conversation with the two monarchs, whose pretensions I had disputed, was satisfied their claims were just. "That short, thick, old gentleman, is the Grand Duke of Saxe Weimar. That young man near him, the Crown Prince of Wirtemberg. Here, turn your eyes to that seat. The large elderderly man, with a full face,—he looks like an Englishman,—he is the King of Bavaria."—"*Pardon,*" I exclaimed, stepping quickly aside. "That was the Grand Duke of Baaden," said my monitor, "whose toe you trod upon; he was talking to Prince William of Prussia. Here, fall back a little to let these gentlemen pass; they seem very anxious to go on. One, two, three, four, five;—these are all Archdukes of Austria.—There seems a little press towards that end of the room.—See, three women in masks have beset the King of Prussia; he seems not a little puzzled what he shall do with them.—Now a party of waltzers draws the attention of the crowd, and the King is left to dispose of his fair assailants as he thinks fit.—Do you see that stout tall man, who looks at the dance?—he is the Duke of Saxe Cobourg; and by his side, not so stout as himself, is his brother the Prince Leopold."—"Who is this young man next to us, marked with the small-pox, who is speaking broken English?"—"It is the Crown Prince of Bavaria; he is said to be very fond of your nation. And here," giving me another hearty squeeze with his elbow, "is an English milord." He had upon his head a remarkably flat cocked hat,—two ladies in dominos leaned upon his arm. The hat, unique of its kind, rather excited a smile in my companion. After a little more pushing, for the room was now become very full, we encountered a fine dark military looking man. not in uniform of course, but with mustachoes. "This was Beauharnois, viceroy of Italy."—p. 10—12.

The out of doors scene was not less peculiar, less lively,

or less strangely mixed. The following is a sketch of the Prater.

'The assemblage of carriages in this procession is singularly varied. As the Emperor of Austria passes in one direction, driving the Empress in a phaeton with a pair of quiet horses, and a single servant standing behind, the Count Trautmannsdorf, the master of the horse, is passing in the contrary direction, with a curricle or barouche and six. Immediately before the Emperor the carriage which impedes his progress is a fiacre, hired by a little shopkeeper to take his wife and child an airing in the Prater. Behind him, scarcely restrained by his orderly example, are the impatient wheels of a tilbury, guided by a young English lord; next follows a sort of truncated chariot, with a notch cut in the front to receive a coachman, folded in an old cloak, with ornaments of coarse fur, a large misshapen cocked hat, edged with tarnished lace, and a short crooked pipe stuck in the corner of his mouth.—This carriage was hired by a young Polish Count, at the rate of twelve shillings per day, to be constantly in waiting for him.—The next carriage is an open landau, with four horses, very plain, nay, scarcely respectable; it contains the King of Prussia, and three of his diplomatic corps. Then the carriage of a wealthy banker; next a green *brischca*, in which two young men are lounging at their ease;—the cockade is Sardinian. The next is a chariot and four, with two postillions in blue, with cocked hats; the livery is that of the Prince Liechtenstein. Then follows an open carriage, with two very pretty women, well dressed, but rather gaily for the place;—no one knows who they are. This curricle and pair, fitted out exactly in the English style, and followed by two out-riders, is the Prince N. Liechtenstein; and this handsome English carriage, driven four-in-hand, which breaks a little from the line, is the English ambassador's. On the turf gallops the Emperor of Russia upon a large gray horse, and with him Prince Eugene Beauharnois, subduing a fiery black. The Emperor is dressed in a blue coat and buckskins, and is followed by a single groom. Those who now spur their horses into a gallop,—follow a hare,—or, leap the rails!—who does not know the country to which they belong? Now a carriage draws up to the side near the houses of refreshment, and the Pascha of Widdina lights with his companion, and, followed by a servant carrying his hookah, all are dressed in full Eastern costume, and the Pascha is going to enjoy his pipe over a cup of coffee. In short, the carriages and costumes of the whole of Europe, both civilized and uncivilized, were at this moment to be seen in the drive at Vienna. The numerous tables which stand beneath the groves of trees, are filled with mixed parties; they generally look like families; some of the females have brought their work. A few officers out of uniform sit in groups, and, as they smoke, quietly enjoy the passing scene. Advancing into the wood, and leaving the grand drive, numbers of the common people are seen sitting at the tables smoking and drinking beer, or thronging about the build-

ings of the Carousels, to which a trumpeter from time to time calls their attention; while, in an adjoining room, music invites the soldier and his sweetheart to mingle in the rapid waltz.' p. 30–32.

Such was the captivating exterior of this political carnival: But Dr B. had frequent occasion to find that, like other splendours, they masked a great deal of discontent and apprehension. In the midst of these festivities, he could not avoid observing, that there was much anxiety among all classes of people as to the political arrangements that were to be adopted; and that ENGLAND was regarded as the hope of those who had only Justice to support their claims. How completely these expectations have been disappointed, is now but too well known. The injury done to the character of England by the conduct of its Ministers, on this and other occasions, cannot be properly felt by those who remain at home: But we will venture to say, that no Englishman can now visit the Continent, without the pain of witnessing oppressions to which his country has been accessory: and of hearing it taxed, upon grounds that but too well warrant the charge, with breach of faith, and desertion of the cause of Liberty.

Although there are in Vienna extensive collections of Natural History, and libraries, open to the public, yet literary talent is little respected in society; and the small number of men of science who fill the chairs of the University, consists chiefly of foreigners. This, however, is the natural result of a monopoly of public education in the hands of the Government; which has crushed all private schools, and, consequently, all competition and all improvement, by excluding from the offices of the State every one who has not received his education at one of its own institutions. We may form some idea of the enlightened system which prevails in these establishments, by the time requisite to qualify the student for the duties of a Court Chamberlain, viz. *thirteen years;* during which, the studies for each month are specially prescribed by the sovereign authority. If the Princes of the House of Austria, who have made such laudable exertions to introduce at home the improved agriculture and machinery of England, could induce their Government to grant greater liberty to the talents of the people, and more freedom of discussion, they would then enjoy the still higher gratification of having imparted to their country a portion, not only of the fruits, but of the sources of British prosperity.

The tone of society, where such is the state of education, could hardly fail to be frivolous; but we must allow it the merit of being entirely free from formality or etiquette. The following paragraphs present a lively picture of an evening, and of a dinner party.

'The evening amusements in Germany are very various, and will sometimes almost fall under the dreaded denomination of puerile. Not content with requesting young ladies to recite verses, they will sometimes invert the natural order of things, and compel children to act plays, while grown people play cross questions and crooked answers, or, standing in a circle, and holding a cord in their hands, pass a ring from one to the other, imposing it upon some one of the party, to discover in whose possession it is to be found. Acting riddles is a favourite game, and one which is well calculated to amuse those, who wisely resolve to be amused when they can. A certain portion of the company retire into an adjoining room, where they concert together how best to represent by action the different syllables which compose a word, and then the meaning of the whole word. They presently return, and, carrying on their preconcerted action, require the company to resolve their riddle. Thus, for instance, on one occasion the word which was determined upon was *Jumeaux*. Some of the actors coming from their retirement, began to squeeze a lemon into a glass, calling the attention of the company very particularly to it by their action, thus representing *Ju*. Others came forwards imitating the various maladies and misfortunes of life, thus acting the syllable *meaux*. Then, finally tottered into the circle an Italian duke and a Prussian general, neither less than six feet in height, dressed in sheets and leading-strings;—a fine bouncing emblem of *Jumeaux*.

'Dinner parties, though not the regular every-day amusement of of life in Vienna, are not uncommon; and at this period, besides those given by the inhabitants, the numerous strangers, some of whom had sufficiently large establishments, contributed to the number. There is much similarity in the style of dinners throughout Germany; and it has some points of peculiar excellence. The table is generally round or oval, so that each guest has means of intercourse with the whole party, even when it is large. It is covered, for the greater part, with a tasteful display of sweets or fruits; two places only being left, near the middle, for the more substantial dishes. Each person is provided with a black bottle of light wine, and every cover (even at a *table d'hôte*) is furnished with a napkin and silver forks. The first dishes which occupy the vacant spaces are always soups; they are quickly removed to the side tables, and distributed by the servants. In the mean time, the next dish is placed upon the table, taken off, carved, and carried round to the guests in precisely the same manner; and so on, till every thing has been served. The plates are carefully changed; but the knives and forks very generally remain through the greater part of the dinner, or, at best, are only wiped and returned. The dishes are so numerous, and the variety so great, that, as everybody eats a little of everything, they seldom take twice of the same. The succession of luxuries is not exactly the same as with us. An Englishman is somewhat surprised to see a joint of meat followed by a fish, or a savoury dish usurp the place

of one that was sweet. To conclude the ceremony, each servant takes one of the sweetmeat ornaments of the table, and carries it, as he has done with the other dishes, to all the guests. During the whole of this time, the conversation has been general and lively, and, beyond a doubt, much more interesting than that which is heard on similar occasions and in similar society in England, where its current is perpetually interrupted by the attention which every one is bound to pay to the wants and wishes of persons at the most distant parts of the table. While the sweatmeats are served, a few glasses of some superior kinds of wine, which have likewise been distributed at intervals during the dinner, are carried round; and then the company, both ladies and gentlemen, rise at the same time by a kind of mutual consent, which, as the rooms are seldom covered with a carpet, occasions no inconsiderable noise. To this succeeds a general bowing and compliment from every one to each of the company individually, each "hoping that the other has eaten a good dinner." This peculiar phrase is precisely the counterpart of another always employed on the parting of friends about mid-day, expressing "a sincere hope that the other will eat a hearty dinner," and is the form of civility most usual in Vienna. The party now adjourns into another apartment, where coffee is served, and where it is frequently joined by other visitors, chiefly men who come without particular invitation, to pay their respects, or converse on business, in the manner of a morning call, and prolong their visits as the movements of the first party indicate: for an invitation to dinner by no means necessarily implies that you are to spend your evening, or any part of it, at the house, or that the family has no other engagement as soon as dinner is concluded, and the guests have taken their coffee and liquors. As the dinner is early, being always between twelve and five, the remainder of the evening is employed in various pursuits. A drive in the Prater, or to some place of public resort, a visit to the theatre, or a succession of the calls I have just described, employ the evening; or, if the dinner has been very early, the party resume the occupations and business of the day.' p. 22–25.

The appearance of the country, and of the peasants our author met with on his entrance into Hungary by Presburg, was far from prepossessing; but is characteristic of an extensive district and its inhabitants.

'The plain is unenlivened by trees, unintersected by hedges, and thinly inhabited by human beings;—a waste of arable land, badly cultivated, and yielding imperfect crops to proprietors who are scarcely conscious of the extent of territory they possess. It is for some branch of the families of Esterhazy or Palfy, known to them only by name, that the Sclavonian peasants who inhabit these regions are employed. Their appearance bespeaks no fostering care from the superior,—no independent respect, yielded with free satisfaction from the inferior. It is easy to perceive, that all stimulus to invention, all incitement to extraordinary exertion, is wanting. No one peasant

has proceeded in the arts of life and civilization a step further than his neighbour. When you have seen one, you have seen all. From the same little hat, covered with oil, falls the same matted long black hair, negligently plaited or tied in knots; and over the same dirty jacket and trowsers, is wrapped on each a cloak of coarse woollen cloth, or sheep-skin still retaining its wool. Whether it be winter or summer, weekday or Sabbath, the Sclavonian of this district never lays aside his cloak, or is seen but in heavy boots. Their instruments of agriculture are throughout the same; and in all their habitations is observed a perfect uniformity of design. A wide muddy road separates two rows of cottages, which constitute a village. From amongst them there is no possibility of selecting the best or the worst; they are absolutely uniform. In some villages the cottages present their ends; in others, their sides to the road; but there is seldom this variety in the same village. The interior of the cottage is, in general, divided into three small rooms on the ground floor, and a little space in the roof destined for lumber. The roof is commonly covered with a very thick thatch, the walls are whitewashed, and pierced towards the road by two small windows. The cottages are usually placed a few yards distant from each other. The intervening space, defended by a rail and gate, or a hedge of wicker-work towards the road, forms the farm-yard, which runs back some way, and contains a shed or out-house for the cattle. Such is the outward appearance of the peasant and his habitation. Of his domestic economy more may be said hereafter.' p. 98, 99.

This he soon had an opportunity of observing, on the estate of Count Hunyadi, at Urmeny, where he was most hospitably entertained, and remained some time to study the economy of a Hungarian farm, of which he has given a minute account.

'Being curious to examine the interior of their houses, I was gratified by the Director, who conducted me into some of them; I believe, however, with a very pardonable selection of the best. I was surprised to find, that men, so negligent of their personal appearance, should enjoy in their houses so much comfort and good order. The door opens in the side of the house into the middle room, or kitchen, in which is an oven, constructed of clay, well calculated for baking bread, and various implements for household purposes, which generally occupy this apartment fully. On each side of the room is a door, communicating on one hand with the family dormitory, in which are the two windows that look into the road. This chamber is usually small, but well arranged; the beds in good order, piled upon each other, to be spread out on the floor at night, and the walls covered with a multiplicity of pictures and images of our Saviour, together with dishes, plates, and vessels of coarse earthen ware. The other door from the kitchen leads to the store-room, the repository of the greater part of the peasant's riches, consisting of bags of grain of various kinds, both for consumption and for seed; bladders of tallow, sausages, and other articles of provision, in quantities which it

would astonish us to find in an English cottage. We must, however, keep in mind, that the harvest of the Hungarian peasant anticipates the income of the whole year; and, from the circumstances in which he is placed, he should be rather compared with our farmer than our labourer. The yards or folds between the houses are usually much neglected, and are the dirty receptacles of a thousand uncleanly objects. Light carts and ploughs, with which the owner performs his stated labour,—his meagre cattle,—a loose rudely formed heap of hay,—and half a dozen ragged children,—stand there in mixed confusion; over which three or four noble dogs, of a peculiar breed, resembling in some degree the Newfoundland dog, keep faithful watch.' p. 118, 119.

From Urmeny, the author proceeded to the gold and silver mines at Schemnitz and Kremnitz, which he has described at great length; as also the various docimastic processes employed to obtain the metals from their ores. The prevalent rock is a tender claystone porphyry, in some places passing into grunstein; the summits of the hills being all composed of this grunstein. The district productive of the precious metals, is about five or six square miles in extent, and contains five great parallel veins, running east and west, and dipping at an angle of eighty degrees. In these veins, consisting chiefly of feldspar, varying from sixty to one hundred and twenty feet in thickness, and connected with each other by small and irregular branches, is found the metallic ore, forming veins from ten to four inches in thickness, and druses lined with crystals of the metal, quartz, and calcareous spar. The great vein of stephani-schacht is remarkable, as diminishing in width as it approaches the surface, which is considered by the miners as an exception to the general rule.

There are twelve great mines in this district, all of which find an outlet for their water at a depth of twelve hundred feet, by one adit, the length of which is estimated at twelve miles. The veins have however been wrought to the depth of eighteen hundred feet; and from these deeper galleries the water is raised by a most ingenious machine, invented by Höll, the chief engineer of the imperial mines. A stream of water, procured from reservoirs in the high valleys, falls through a perpendicular iron pipe, two hundred and seventy feet in length, which, being then bent at a right angle, conducts it into the lower extremity of a large cylinder, in which there is an air-tight piston. The water entering the cylinder, raises the piston to the top, and escapes by a valve which then opens; while, at the same time, the communication between the cylinder and the vertical pipe is interrupted. The piston redescends by its own weight; the water is again allowed to enter the cylinder, and an alternate motion is thus

established. To the piston rod are attached two beams bearing the rods of pumps, which raise the water by successive stages from the deepest parts of the mine. There are three of these machines, each of which raises 1790 cubic feet of water, from a depth of six hundred feet, in an hour. The water employed in working the machine makes its escape by the same adit with that which it has raised. These machines, it is evident, work on the principle of the Hydrostatic Paradox, in the same way as Bramah's press. The perpendicular pipe, in which the water descends, transmits its pressure, through a horizontal tube, to the under surface of a piston of larger diameter than itself, so that it has the advantage of acting with a force proportional to a column of the height of two hundred and seventy feet, and of a diameter equal to that of the wide tube; a force, of course, far greater than its own weight. Though the mechanical advantage derived from this construction must be great, the time for producing the effect wanted, will be increased just in proportion to that advantage, or in the proportion of the section of the wide tube to the section of the small one. The date of this machine is 1749, which shows the great mistake of those who suppose that Bramah was the first who applied this principle to the elevation of great weights. The force of this machine is enormous, though the rapidity of working may not correspond to it. A column of water two hundred and seventy feet deep, is equivalent, by its simple pressure, to about eight atmospheres and a half. What additional force it derives from the comparative sections of the tubes, Dr Bright's description does not enable us to ascertain.

The next object of attention was the capital, Buda, the residence of the Palatine, and the seat of Government. It contains upwards of thirty thousand inhabitants; while, on the opposite bank of the Danube, and connected with it by a bridge of boats, lies the city of Pesth, already of nearly equal magnitude, and rapidly increasing. Its chief ornaments are the National Museum, dedicated to the Natural History of Hungary, with an extensive library, open to the public, and an observatory, recently erected upon a hill rising from the river: great attention has been paid to procure the instruments from Munich, and to render their supports independent of the building. The University, which has a library of fifty thousand volumes, is attended by seven hundred students; amongst them are to be found Jews, as well as Christians of all denominations, complete toleration being allowed throughout the kingdom.

The Government of Hungary, ever since the year 1687, has been a monarchy, hereditary in the House of Austria, limited

by the representatives of the privileged orders assembled in the Diet. The king possesses, however, great and independent power. He assembles and prorogues the Diet at pleasure; and derives, from various sources, a revenue sufficient for the ordinary demands of the State, without being obliged to apply to his people for subsidies or soldiers;—the necessity which usually operates as a check to the throne in limited monarchies. He appoints all officers of state, civil and military, except the Palatine, and the two keepers of the crown. He nominates all the clergy, who enjoy their temporal advantages from his appointment, independent of the Pope's confirmation, which only regards their spiritual functions; and there lies no appeal from him to the Holy See in matters of religion. He alone can grant patents of nobility, and bestows charters of freedom on cities.

The privileged orders are the Nobles, the Clergy, and the Free towns.

The Nobles, who have assumed the title of Populus, have maintained the same privileges which they enjoyed in the time of the Crusades. They are free from all burdens of the State, on condition of serving the King in war; not, however, without the sanction of the Diet. They alone possess landed property, with the power of holding baronial courts, which decide all questions between them and their vassals. A noble cannot be arrested, except for murder or high treason, until he has disregarded repeated summons to give himself up. No peasant or citizen can obtain justice against a noble but through another noble, or the magistracy of a free town; while confiscation of his property, or even death, awaits the individual who violates the person of a noble. The dignity of Magnat, or Superior Noble, is either hereditary, or derived from certain offices of state. Of the former, there are four princes, ninety-nine counts, and eighty-eight barons. Of the latter, the chief is the Palatine, who is chosen for life by the Diet, from four candidates named by the King: He is regent during a minority, president of the upper chamber of the Diet, and names the Vice-Palatine, who commands the nobles when assembled for war. The Viceroy, Chief Judge, Bannus or governor of Croatia, Dalmatia, and Sclavonia, and the Tavernicus or president of the court of appeal, are also of this class. The Magnats enjoy the privilege of sitting individually in the Diet, or sending a proxy when they cannot attend in person. The established religion of Hungary is Catholic; rendered, however, as already stated, entirely subject to the King. No bishop or archbishop can even make a will without the consent of the King, to whom devolves all unbequeathed property of the clergy. Latterly, no bishop has been allowed to receive from his diocese more than 4000*l.* *per*

annum; the remainder of the revenue being applied to the relief of the inferior clergy, who are but slenderly provided for. The dignitaries of the church sit with the Magnats in the Diet: The chapters of the body of the clergy send their proportion of representatives with the nobility of the counties. These dignitaries are usually younger sons of noble families; while the inferior clergy are from the citizens of the free towns, or more wealthy of the peasantry.

There are also other religions in Hungary, not only tolerated, but enjoying the same political privileges as the Established church. The United Greek Church, although retaining some peculiar ceremonies, acknowledges the Pope as its head, and is therefore classed with the Roman Catholic; but the Evangelical, the Reformed, and the United Greek Churches, enjoy a freedom which might excite a feeling of shame in governments which boast of the toleration and liberty of conscience granted to their subjects. Our author has given an interesting abstract of their rights in the following passage.

'The foundation of these rights is laid in the treaty of Vienna in 1606, and in that of Lintz, in 1645. All laws, privileges and orders, since enacted in contradiction to these treaties, are null and void; as is also the protest of the Catholic clergy, and some laymen, entered at the assembly of the States in 1791, against the new edict of religion. The Evangelical religious worship is, throughout every part of Hungary, free and open (Dalmatia, Croatia, and Sclavonia excepted, where the professors of this faith are neither capable of holding estates, nor of filling offices), wherever the contributors are in sufficient numbers, and possessed of sufficient wealth, to support a preacher and church. They are eligible to all offices of State, and to all employments; on entering upon which, they shall no longer be required to swear by "the Virgin Mary, and all her saints," &c. &c.

The United Greek Church is still more highly privileged: its bishops have a seat in the Diet, and are independent of the King; while their spiritual concerns are under the jurisdiction of a Patriarch chosen by the Greek Church itself. There are but few divisions into sects in Hungary; but there is one too remarkable to be passed over in silence. In Transylvania, there is a body of Unitarians, estimated at thirty-two thousand.

The towns which have obtained their freedom by a Royal charter, form the last division of the privileged orders, and enjoy nearly the same rights as the Nobles. They can hold landed property; and they send representatives to the Diet. The citizens are exempt from tolls, are eligible to all offices, their

persons are sacred, and they elect their own magistrates: But they are subject to have troops quartered upon them; and cannot, individually, possess land, unless they have a patent of nobility.

The whole country is divided into Comitatus, or Counties, which hold meetings for the regulation of their own affairs, and to which the wishes of the King are usually submitted. If the assemblies of the Comitatus refuse to accede to the royal demands, the Diet is assembled, and has the power of deciding without appeal.

The Diet which is assembled for the coronation of a King, the election of a Palatine, and once in five years, or as much oftener as the King desires, for the consideration of state affairs, consists of nearly seven hundred members, divided into four classes. I. The High Catholic Clergy. II. The Magnats. III. The inferior Nobles and Ecclesiastical Chapters, represented by the Deputies of the Comitatus. IV. The Deputies of the free towns. These four classes are arranged in two chambers. In the upper chamber sit the Clergy and Magnats, with the Palatine as president. In the lower chamber sit the Deputies of the Comitatus and free towns, as also the proxies of such Magnats as are absent: the president of this chamber is a noble, who represents the King.

The Diet waits upon the King or his commissioners in the palace, where his wishes are made known to it: After being separately considered in each Chamber, and put to the vote, the decision is drawn up by the Lower Chamber, and laid before the Throne. If sanctioned, it is read in the assemblies of the Comitatus, and becomes law. If the Diet and the King cannot agree, the proposed measure falls to the ground. The two Chambers confer by means of deputies; and each order giving as its vote the voice of the plurality of its own members, the question is decided by the majority of the orders. The Diet, with consent of the King, can alter all laws, except those which affect the succession to the throne, and the exemption of the nobility from taxation.

The King has at his disposal a standing Army of sixty thousand men, which is maintained by the peasantry and free towns: With the consent of the Diet he can also call forth the Insurrection of the Nobles, who, on some of these occasions, have brought forty thousand men into the field. The most curious part of the Military establishment is the militia, intended as a barrier against the Turks, which occupies the Croatian frontier. Every father of a family holds a certain portion of land from the Government, for which he pays a small land-tax, furnishes

his quota to the public magazines, and is bound to take the field when required. While in the field he is maintained, and the land-tax remitted in proportion to his military service. The land descends to the eldest son; and, if there are no male heirs, reverts to the Crown. Sixty or more of these landholders unite into a family, under a Patriarch of their own choice, to whom they yield implicit obedience. All the labour and gains of this family are in common; and no one can quit it without being punished as a deserter. Several of these families united, form a company, under the orders of a captain; and several companies constitute a regiment, commanded by a colonel. The whole economy of this extensive district is military; the agricultural labours are directed by corporals; the courts of justice are composed of commissioned officers; and the whole is subject to the Council of War at Vienna. The force which can be called out is estimated at eighty thousand men; and the line which they are intended to protect, at six hundred miles.

The Revenue derived by Austria from Hungary is calculated at three millions sterling. Of this, five hundred thousand pounds are levied as a direct tax upon the peasantry and free towns; the remainder is produced by rights of the Crown, independent of the Diet. The chief of these are the crown lands, the monopoly of salt, the coinage, the gold and silver mines, the customs, fines, the income of vacant bishopricks, the tax paid by Jews for the right of residence, and the post. The burden imposed upon the peasants and citizens in maintaining and transporting troops and stores, is estimated at three hundred thousand pounds additional.

Although some of the orders enjoy privileges detrimental to the general interests of the country, yet the voice of the Diet in making laws, and in the imposition of taxes, and, above all, the unlimited freedom of religious opinion, render the government of Hungary far superior to the despotic systems which surround it. We must now, however, turn to the dark side of the picture, in which we shall find the Peasant at the mercy of his lord, and bearing the whole burden of the State, without a single privilege; a statement fully borne out by the following account of his relation, to the King and Nobles.

'The manner in which land is possessed and distributed in this country, is very singular. No man can possess lands who is not a noble of Hungary. But as all the family of a nobleman are also noble, it is supposed that, in every twenty-one individuals in the nation, one is of this class. The lands descend either entire and undivided to the eldest son, or are equally divided amongst the sons, or, in some cases, amongst the sons and daughters; so that many of the

nobles become, by these divisions, extremely poor, and are often obliged to discharge all the duties of the meanest peasant. If any of these nobles wish to sell an estate to a stranger, however high in rank, even to a noble of the Austrian empire, application must first be made to the surrounding proprietors, to learn whether they wish to purchase at the stipulated price; if they decline, the stranger may purchase it for a period of thirty years; at the end of which time, any branch of the family which sold it, however distantly related, may oblige the stranger to surrender his bargain. This goes so far, that, in many cases, though the purchaser be a Hungarian noble, the family of the former possessor can reclaim it after thirty years, on payment of the original price, together with expenses incurred in the buildings and improvements which have been made during that period. The litigation, ill-will, and evils of every kind to which such laws give rise, are beyond calculation.

'The peasants on these estates were formerly bound to perform indefinite services, on account of supposed grants and privileges likewise little understood. Maria Theresa put the whole under certain regulations, which left less arbitrary power in the hands of the lord. She fixed the quantity of land upon each estate which was to remain irrevocably in the possession of the peasantry, giving to each peasant his portion, called a *Session*, and desiring the services which should be required of him by his lord in return. The only points determined, however, were, first, the whole quantity of land assigned to the peasants; secondly, the relation between the quantity of land and the quantity of labour the lord should require for it. The individual peasants are not fixed to the soil, but may always be dismissed when the superior finds cause; nor is it of necessity that the son succeeds to his father, though usually the case. The peasant has no absolute claim to a whole session:—if the lord please, he may give but half a session, or a third; but, in this case, he cannot require more than one-half or one-third of the labour. The quantity of land allotted to a whole session is fixed for each *comitatus* or county. In the county of Neutra, where Urmeny is situated, it varies, according to the quality of the soil, from twenty to thirty ioch, each equal to 1.46 acres, or nearly 1½ English statute acre; and of these, sixteen or twenty must be arable, the rest meadow. The services required of the father of the family for the whole session, are one hundred and four days of labour during the year, if he work without cattle; or fifty-two days if he bring two horses or oxen, or four if necessary, with ploughs and carts. In this work he may either employ himself, or, if he prefer and can afford it, may send a servant. Besides this, he must give four fowls, and twelve eggs, and one pfund and a half of butter; and every thirty peasants must give one calf yearly. He must also pay a florin for his house,—must cut and bring home a klaster of wood,—must spin in his family six pfund of wool or hemp, provided by the landlord;—and, among four peasants, the proprietor claims what is called a long journey, that is, they must transport

twenty centners, each one hundred French pounds weight, the distance of two days' journey out and home; and, besides all this, they must pay one-tenth of all their products to the church, and one-ninth to the lord. Such are the services owed by the peasant; and happy would he be were he subject to no other claims. Unfortunately, however, the peasant of Hungary has scarcely any political rights, and is considered by the Government, much more than by the landlord, in the light of a slave. By an unlimited extension of the aristocratical privilege, the noble is free from every burthen; and the whole is accumulated upon the peasant. The noble pays no tribute, and goes freely through the country, subject to neither tolls nor duties: But the peasant is subject to pay tribute; and although there may be some nominal restrictions to the services due from him to Government, it can safely be said that there is no limit, in point of fact, to the services which he is compelled to perform. Whatever public work is to be executed,—not only when a road is to be repaired, but when new roads are to be made, or bridges built,—the county meeting gives the order, and the peasant dares not refuse to execute it. All soldiers passing through the country are quartered exclusively upon the peasantry. They must provide them, without recompense, with bread, and furnish their horses with corn; and whenever called upon, by an order termed a "*forespann order*," they must provide the person bringing it with horses and means of conveyance. Such an order is always employed by the officers of Government; and whoever can in any way plead public business as the cause of his journey, takes care to provide himself with it. In all levies of soldiers, the whole falls upon the peasant; and the choice is left to the arbitrary discretion of the lord and his servants.' p. 110—113.

In addition to all these burdens, operating constantly to check the prosperity of the peasant, he is liable to suffer imprisonment and stripes by the sentence of a Baronial Court, *(Herrenstutil)*, composed of the immediate dependants of his lord. Indeed, the traveller is warned of his being in the vicinity of the residence of a noble, by meeting bands of peasants at work in irons, under the guard of heiducks or police officers; and the first sound which salutes him on entering the gateway of a palace, is the clanking of fetters in the dungeon constructed in the outer wall of the court. Of the nature of these prisons we may judge from the following description of that of Keszthely; according to the author, one of the best he saw.

'Under the guidance of the keeper of the prison, I entered by a door well barred and bolted. Instantly seventeen figures, all in the long Hungarian cloak, rose from the ground on which they were sitting. Besides themselves, the room, which was not above twelve feet square, presented no one object: no table, bed, or chair. It was ventilated and lighted by several small grated windows, high up in the side of the walls. The prisoners were most of them young men;

some had been tried, others had not; and some had been confined seven or eight years. Their crimes were very different; but no difference was made in the mode of treating them, excepting as to the number of lashes they were to receive at stated times, or the number of years they were to be imprisoned. Such was their residence during the day-time, when they did not go out to work. We next proceeded to the dungeon in which they are confined during the night, the jailor taking the precaution to disguise unpleasant smells, by carrying a fumigating pot before us. On opening an inner door, we entered a small room, in the corner of which lay two women on beds of straw. In the middle of the floor was an iron grate. This being opened by my guide, he descended first, by means of a ladder, with a lamp in his hand, by the light of which I perceived that we were in a small antichamber, or cell, from which a door opened into the dungeon, the usual sleeping place of all the male prisoners. It was a small oblong vaulted cave, in which, the only furniture was two straw mattresses. A few ragged articles of dress lay near the place where each prisoner was accustomed to rest upon the naked floor. In one corner of the room was a large strong chain; and, at about a foot and a half from the ground, round the whole vault, were rings let into the wall. The prisoners, at night, having laid themselves upon the ground, the chain is put through the irons which confine the ancles of three of them, and is passed into a ring in the wall; it is then attached to three more, and is passed through a second ring, and continued in this way till the complete circuit of the room is made. The ends of the chain are fastened together by a padlock, by which the whole is secured.' p. 440—441.

It is evidently impossible that the peasant, without capital, and exposed to such treatment, can do justice to the thirty acres of land allotted to him; and we accordingly find them very ill cultivated. During the first year, wheat and rye are sown in winter; in the second, wheat and maize in the spring; in the third, the land is fallow. In the fourth and fifth years, the winter and spring crops are repeated; and the sixth again brings round the fallow, with such manure as they are able to give. The meadow land continues to afford them hay without interruption, which is left out during the winter in large heaps, without any protection from the weather. The corn, after being trodden out by oxen, or beaten by a flail consisting of a large bullet at the end of a stick, is put into holes dug in the ground, which have been previously dried by fire and lined with straw, and then covered over with earth. From this mode of keeping, it usually acquires a musty taste, and is at the same time impoverished in quality. We believe a more rude state of agriculture has hardly been described by any traveller among the uncivilised nations of either Asia or Africa.

From Buda, our author returned direct to Vienna, by Raab, along the banks of the Danube; but soon set out again, to visit the more southern districts of Hungary. After visiting Eisenstadt, the residence of Prince Esterhazy, he proceeded to Keszthely, the seat of Count Festetits, on the shore of the lake of Balaton, where he enjoyed the best opportunity of becoming acquainted with the management of land, in the hands of the noble proprietor. Of the complex system adopted in the administration of the property, he gives the following description.

'To regulate such extensive domains, we may easily perceive that much accuracy of detail is necessary, and, at times, not a little exertion of power. Accordingly we find, in a well regulated Hungarian property, all the subordination which exists in an army, united to all the accuracy of accounts, which is necessary to conduct a mercantile concern. To procure this, a central office is instituted, the mandates and regulations of which are absolute. This office is usually at or near the estate on which the Magnat resides, if he resides on any, and may be considered as the seat of government of these little principalities; such is Eisenstadt to the estates of Prince Esterhazy, Keszthely to those of Graf Festetits, and Kormond to those of the Prince Batthyani. Here a court of directors is held at stated periods, usually every week; but this will vary, as well as the number of officers who compose the court, according to the extent of the estates, and the will of the possessors. The following, however, may be considered as the usual officers of such a court:—a *President* or *Plenipotentiary*, whose office it is to preside over all judicial proceedings, and to represent the person of the Magnat. The *Director of Causes*, or *Solicitor*, who conducts legal processes in the assembly of the comitatus, and is employed in other law business. *Five Assessors.* 1*st*, The Prefect, who is referred to by the court in all agricultural affairs, and who superintends the agriculture of the whole domain. 2*d*, The Auditor, referred to in matters of accounts, and who superintends all articles of receipt and expenditure. 3*d*, The Engineer, referred to on all architectural, geometrical, and mechanical subjects. 4*th*, The Fiscal, referred to in law affairs before the directors. 5*th*, The Keeper of the Archives. The secretaries, the clerks, &c. At this court is taken a review of all which has passed, both judicially and economically; and all the alterations and improvements which may be suggested, are brought under consideration. Accounts and statements sent in from distant estates are examined; plans of operation for the future, and regulations and directions to be issued in consequence, are finally agreed upon. In some instances, these regulations and orders are printed; particularly if any radical change is to take place, or any admonitions of general importance are to be enforced.

'The Hofrichter, or steward of each separate estate, is required to send to the directors monthly reports of his proceedings, with hints

of his future projects, and a most accurate account of all expenses; together with the quantity of produce which remains on the estate. The Hofrichter likewise holds his weekly court, to regulate the concerns of the particular estate which is under his individual management. The officers of each estate are nearly as follows:—the *Fiscal*, who takes charge of the law affairs of the lord; the *Hofrichter*, or steward, who conducts the agricultural concerns; the Forest Master; the Engineer; the Treasurer; several *Ispans*, whose duty it is to execute the orders of the Hofrichter, each in his particular district of the estate; many *Pazela*, who, under the direction of the *Ispans*, superintend the labourers; many *Heiducks*, or officers of police, who likewise guard the prisoners, and keep the labourers to their work; Forest-keepers; Rangers; and a Gaoler, (Porkolab).' p. 373–375.

The necessity of having intelligent and well educated officers to carry into effect this cumbrous system, has caused the institution of schools expressly for their education. We must refer to the work itself for a full and interesting account of the Georgicon, or agricultural school established at Keszthely by Count Festetits. In this establishment are maintained and educated eight or ten pensioners; and as many independent students are admitted as choose to attend. The course lasts three years, in which time they are instructed in Mathematics, Natural Philosophy, Chemistry, Natural History, Veterinary Medicine, and Law; while, on a large experimental farm, they are taught Agriculture, as practised by the Norfolk farmers, the management of forest and fruit-trees, and the care of cattle, sheep, swine, and bees. There is also a school for the education of girls as housekeepers. From the pensioners are chosen the officers of the Count's extensive estates; and the independent students are eagerly sought to fill similar situations by the nobility of the country. Institutions of a similar description have been formed by the Government at Schemnitz, Szarvas, Karanselies, and Maria Brunn; and by the Nobles at Szent Miklos and Eisenstadt. There are many more dispersed through the Austrian dominions; and they have all received their chief improvements, both in agriculture and in their implements of husbandry, from the celebrated Fellenberg of Hofwyl in Switzerland. Before Austria, however, can reasonably hope that these schools are to improve the cultivation of her territories in the same degree with that of Hofwyl, she must place the scholar in the same situation, by giving him the same motives for exertion—freedom—and security of property.

Count Festetits has made this experiment on a large scale. Having purchased an estate in the Murakös, a tract of country between the Muhr and the Drave, he granted lands to the pea-

sants at a fixed annual rent, a few only remaining on the common tenure of service. In these free villages, the value of land has risen to such a degree, that the owner of four acres is esteemed wealthy, and the population has increased from fifty families to six hundred. Although still subject to the government duties, and suffering from the effects of two bad seasons, and an inundation of the Drave, these peasants were, in 1814, striving cheerfully with the difficulties of their situation; while their neighbours, on the common footing, although each family possessed thirty acres, were reduced to subsist on the bounty of their lord. These free villages also afford an exception to the general dishonesty of the Hungarian peasantry; their household furniture is often exposed on the outside of the cottages, and does not even require the protection of the large dogs common in the rest of the country. As, however, on hereditary property, no arrangement made by the lord is binding on his successor, this amelioration cannot become general without an act of the Legislature.

Hungary produces great abundance of corn, wine, (of which the tokay is the best), and fine wool; it contains also extensive forests, mines of gold and silver, and of salt: But much remains to be done, to enable its inhabitants to derive a due profit from these productions. At present, trade is entirely in the hands of Jews, Greeks and Armenians, who travel from fair to fair, and purchase from the peasant at a low rate: their gains are of course immense. The only article manufactured for exportation is leather.

There is a considerable difference in the appearance of the country in the northern and southern extremities of our author's tour. In the north, we find an immense extent of unenclosed arable land, over which the eye wanders without interruption, except from a few small forests and thinly scattered villages. In the south, the surface is diversified with small elevations laid out in vineyards interspersed with fruit trees; while in the vicinity of the lake Balaton, are rich pastures, from which rise several insulated basaltic hills. The whole of these districts are bounded, excepting to the eastward, by fine mountains, which limit the waters tributary to the Danube. To the eastward lies an entirely level and open country, comprehending all Eastern Hungary, and extending from where the Theiss issues from amongst the hills, to its junction with the Danube. Between these rivers there is a great extent of marsh, and some peat-moss, while the drier districts are sandy; often indeed covered with moving sands, said to contain marine shells. Here and there are found miserable villages, affording a shelter to the herdsmen who

watch the cattle in the pastures, which appear like caves in this desert. This country, however, contains one city, Debretzin, with a population amounting to forty thousand souls. It is the centre of commerce of Transylvania and Hungary, and its inhabitants, are all occupied in trades more immediately concerned with the necessaries than the luxuries of life. The houses are all strictly cottages, upon the same plan with those already described; and every month is formed, for a time, an immense suburb of booths and covered waggons, for the accommodation of the travelling merchants who frequent the fairs.

The only objects of curiosity to the mineralogist afforded by Lower Hungary, are the insulated hills already mentioned, as occurring in the vicinity of the lake of Balaton. Our author has described three of them which he visited. The hill of Csobantz consisted of a porous scoriated lava, partly in loose masses, partly *in situ*, covered at the base with a sand containing particles of iron and some other substance glittering like small fragments of mica: the summit alone was basaltic greenstone. The hill of Badacson consisted of the same porous lava capped with columnar greenstone, but in horizontal beds of about a foot in thickness, and containing olivine. In one place he observed, during the descent, a sandy tufa with scoriated fragments, which resembled closely a mass found on the side of Mount Hecla. The hill of Szigliget was composed entirely of this tufa, seemingly stratified near the summit; but being on one side quite cut down, it showed a perpendicular vein or dyke of greenstone, in horizontal columnar masses, which had produced considerable hardness and compactness in the sand immediately in contact with it.

As earthquakes are not unfrequent in the vicinity, Dr Bright seems inclined to consider these hills as volcanic: but as there is no good evidence of the existence of a crater, and no vestige of a stream of lava connected with them, we think this at the least very doubtful. In the way to Vienna through Styria, he visited at Gratz the Joannæum, founded by the Archduke John, who, after an accurate survey of Styria, presented to the public the museum and library collected during his inquiries. Lectures were afterwards instituted on all the branches of natural history and philosophy. This institution has furnished, in the person of Professor Mehs, a successor to the celebrated Werner at of Freyberg.

Those who wish to be become intimately acquainted with the government and rural economy of Hungary, will find in the work before us every detail they can desire; the author having not only made the best use of his own opportunities of observa-

tion, but also consulted the most respectable native writers upon these subjects. From them he has extracted, and thrown into the form of an Appendix, tables which contain the statistics of each county, the produce of the mines, the culture of the vine, and mode of preparing tokay, and the quantity of corn grown in the Austrian dominions. To these he has added a description of the coronation of Joseph the First, and an essay by a friend on the Gypsies or *Gitanos* of Spain, with a vocabulary of words and phrases common to those people, as found in Spain, Hungary, and England. Many curious facts concerning their origin and customs are contained, both in this essay and in the body of the work.

Art. XI. *A Complete Collection of State Trials and Proceedings for High Treason and other Crimes and Misdemeanours, from the earliest Period to the year* 1783; *with Notes and other Illustrations.* Compiled by T. B. Howell Esq., F. R. S. F. S. A.: with a Continuation to the present time by his Son T. J. Howell Esq. 24 vol. 8vo. London, Baldwin, Longman, &c. 1809–1818.

Though Jurisprudence is the most important of all the sciences, yet, unhappily, it seems to advance the most slowly towards perfection. If we compare the real improvements which the lapse of a century produces in legislation, with the progress of any branch of physical knowledge during a very few years, we shall presently be struck with the different rates at which men advance in the discovery of truths chiefly interesting as matters of speculation, and in the establishment of principles the most intimately connected with human virtue and happiness. But if the lawgiver and his commentators, literary and judicial, be slow of motion, they certainly cannot be accused of inactivity. They make little way, but abundance of stir. Compared with the effect produced, the exertion is indeed extraordinary. At all times, the makers and expounders of the law seem to have enjoyed a special privilege in the matter of prolixity and voluminousness. When Justinian compiled his Institute, the writings on the Civil law were said to be '*multorum camelorum onus:*' and the consequence was, that the science was so little known, and its professors so little respected, that if, in any society at Rome, a great jurisconsult was mentioned, the odds were, that nobody knew who it was, while the more polite part of the auditors took it for the name of some foreign fish.

In our own country, the mass of law and commentary is even more overwhelming; and the oracles of one age become neglected and forgotten in the next. Of the 'multiplicity and voluminousness' of the statutes, complaints were urged near a century ago by learned men; and, for some years past, the average of new law-books published in a year, and which the practitioner must more or less frequently resort to, amounts to eight or ten volumes. To avoid giving invidious examples from recent times, of the changes effected in the estimation of those works, we shall cite an anecdote of Stathom, the author of the first Abridgement of Cases,—which is applicable to far shorter periods of time than the distance between Henry VI. and Charles I. Of him Fuller (in his *Worthies*) quaintly observes, that 'his book is much esteemed for the antiquity thereof; for, 'otherwise, lawyers behold him as soldiers do bows and arrows since the invention of guns, rather for sight than service.' 'Yea,' (adds he) 'a grandee in that profession hath informed 'me, that little of Stathom, if any at all, is law at this day; so 'much is the practice thereof altered,—whereof the learned in 'that faculty will give a satisfactory account; though otherwise 'it may seem strange, that reason continuing always the same, 'law grounded thereon should be capable of so great alteration.'

Although the greatly increased volume of the '*State Trials*,' from one generation to another, furnishes no exception to this rule, yet unquestionably it forms by far the most important part of the juridical library. The subjects are almost all of general and permanent interest. The discussions were solemn, and the decisions well considered. Prejudice, violence, or corruption, may often have misled; but at least every thing was fully investigated, and the error or the fault committed may be traced and corrected in the history of the proceeding which it disfigures. They contain much of the *origines juris*. Beside the principal cases themselves, a variety of points are incidentally discussed with great care, from the interest attached to everything connected with such high affairs. They throw great light upon the progress of the Constitution; indeed they form an essential branch of Parliamentary History, where alone the Constitution can be either traced through its changes, or accurately learnt by its principles. Nothing can well be figured more opposite to the Reports of Cases which abound in the present day—intolerably augmenting the labour of the student—tormenting the practitioner—overlaying what is sound and useful—discouraging the acquirement of scientific knowledge—substituting, for the study of principle, the empirical recollection of facts—perpetuating whatever mistakes may accidentally be committed—and render-

ing their extirpation both difficult, violent and hurtful, by saving them from the natural death which awaited them.

A valuable service was, therefore, rendered to the student of law for practical purposes; and still more to him who would examine its principles with the eye of a philosopher and an historian, by the original editors of the great work which we now have before us in its last and nearly perfect state. It was first undertaken a century ago, under the superintendence of Mr Salmon, and consisted of four volumes folio. This edition was followed immediately by an additional volume, and soon after by an octavo in eight volumes, which we have never seen, but understand to be an abridgement; and in 1738, Mr Salmon published, in folio, his Critical Review of the State Trials, an abridgement of considerable utility and merit; although Mr Hargrave justly censures the strong Tory prejudices with which it is tinged. In 1730 was published the edition, commonly called the second, in six volumes folio, by the learned, ingenious, and enlightened Mr Emlyn; a man who enjoys considerable reputation in the profession for his edition of Sir M. Hale, but whose merits seem to have far exceeded the fame with which his modest ambition rested satisfied. Beside the addition of a sixth volume, bringing the work down from the reign of Queen Anne to the end of George I., and an Appendix of Records, which made the work a book of Entries as well as Reports, Mr Emlyn enriched the whole with references to the law-books and works of undoubted authority; and, above all, with a Preface, which abounds in learning, and is distinguished by peculiarly sound and liberal opinions. He there points out, with a masterly hand, some of the most remarkable peculiarities in the system of English jurisprudence; praising its excellences, and freely exposing its defects. We shall extract a few passages from this admirable piece, because they bear very powerful testimony to the doctrines which some are called ignorant, and others criminal, for broaching, however soberly, in the present day. But first it may be observed, that several additions of importance, and some lesser alterations, were made in the last edition; and it is remarkable, that these changes should have escaped so diligent and learned a person as Mr Hargrave, who speaks of the Preface to the edition in 1742 as a mere reprint of the Preface of 1730.—(1. Harg. St. T. Pref. iii.)

One of these additions is attended with somewhat singular circumstances. Mr Emlyn, in 1730, exposes most justly the absurd practice of engrossing all pleadings, criminal as well as civil, in Latin and a Court hand, so as to render them at once illegible and unintelligible to the parties most interested in them. In the republication of 1742, we find the same passage not only

preserved, although the act remedying the evil had passed in 1731 (4. Geo. II. c. 26.), but altered and considerably enlarged, a new argument being added. Now, as there is a note referring to the statute which had removed the grievance, it should seem that Mr Emlyn had altered the Preface soon after it was first published, but had died before it was finally corrected for publication. * The learned editor of the work before us, following the inaccuracies of the edition 1742, gives the Preface of 1742, with the date of 1730, and the name of the author affixed, although he only signed M. N. to the first edition of it. † We ought to add, that the greater part of the first extract which we are about to give was added to the publication in 1742, and is not to be found in the original edition.

'It has been esteemed an advantage of our law, that it does not inflict various and cruel deaths: that which is inflicted for treason, is the only one which has any appearance of severity; and even there, in the execution, it is generally the same with other capital cases. But yet it must also be observed, that our laws are very liberal of the lives of offenders, making no distinction between the most atrocious and heinous felonies, and those of a less degree. If a man commit a single robbery, hanging is the punishment inflicted by law; if he commit robbery and murder, with never so many cruel circumstances, the punishment is still the same, and no more. So little regard is had in proportioning the punishment to the offence, that the law makes no difference between picking a man's pocket ‡ and cutting his throat; between stealing his horse, and firing his house about his ears. How far this is either just or prudent, is left for every man's own reason to determine. It is certainly a strong temptation to an highwayman to add murder to robbery, when by that means he runs less danger of a discovery, and no danger of a severer punishment.'—

'However, not to enter into a discussion of the lawfulness, or justice, of taking away life for every kind of offence, a consideration which, the learned Spelman observes, has not its due weight in later ages, yet methinks so long experience might have taught us how ineffectual it is to answer the purposes for which it is designed.

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* It is certain, however, that he lived several years after the date of the statute; for the Pleas of the Crown were edited by him in 1736.

† A circumstance somewhat similar to the one pointed out in the text, occurs in the Observations upon Gaols and Gaolers' Fees. Though these bear date *March* 27, 1730, mention is made of the matter as under the consideration of Parliament; yet the 2 *Geo. II.* c. 22., to which he refers, had been passed the year before.

‡ This capital punishment has since been expunged from the statute-book by the great legislator whose loss all Europe now deplores.

Death is *ultimum supplicium:* and is therefore intended only for crimes of the highest rank; but when it is indiscriminately inflicted, it leaves no room to difference the punishment of crimes widely different in their own nature. The lower part of mankind are apt, in dubious cases, to judge of the heinousness of the offence by the severity of the punishment; but yet, when they see the same punishment annexed where the difference of guilt is manifest and apparent, they soon lose the sense of that extraordinary guilt, and, *instead of conceiving worse of the crime, they only blame the cruelty of the law.* Further, when such numbers are continually ordered for execution, (as must be the case where death is made the common punishment for ordinary crimes), the frequency of the example destroys the terrors of it, and makes it less dreaded than going to the gallies, or any place of hard labour. Besides, when the punishments are so very disproportionate to the offence, it defeats the end of them; forasmuch as *those who have any tenderness or humanity in their temper, will much rather forbear wholly to prosecute,* than be made the instruments of putting such severe laws in execution. Instead, therefore, of being a means of bringing the offenders to punishment, it is sometimes the very reason why they escape with impunity.' (*Edit.* 1742, I. x.)

It is peculiarly gratifying to find such sentiments as these expressed at so early a period; and no less pleasing to find the following passage which is in the edition of 1730. Speaking of compulsory labour as a punishment, and of the right to employ it for this purpose, he says, 'I am sure it is a much more lawful method of making slaves, than the practice of kidnapping and stealing men from the African shore, and forcibly carrying them away from all their friends and relations, into a miserable slavery in America, without any better title than what arises from the difference of complexion.'

No one conversant with our statute law, and especially the more recent portions of it, can fail to admit, that since the period when Mr Emlyn wrote, the evil complained of in the following passage has increased beyond all endurance, and has almost verified the prediction of that learned and sensible person. Speaking of the 'multiplicity and voluminousness of our laws,' he says, (and the labours of almost ninety years have since mightily augmented the rude and indigested mass), 'If what lies scattered in so many various (some obsolete) acts were (so much of them as should be judged fit to be continued) collected under their several heads into so many distinct acts, the law would be much more plain and easy; whereas now, considering the variety of subjects * which are often thrown to-

* This one evil has been to a great degree corrected in the statutes of later years—but the old acts continue with the same discrepancy between the title and the enactments.

'gether into one act, and, though various, relating to one and the 'same subject, it is no easy matter to find out the whole relat-'ing to one particular head; and when it is found, many diffi-'culties arise from the clashings and inconsistencies of the se-'veral acts, the old ones not being always sufficiently consulted 'when the new ones are made; so that it is to be wished we 'may never feel the inconveniencies which Tacitus complains 'of in his time.' '*Antehac flagitiis laborabatur, nunc legibus.*'

We have already alluded to Mr Emlyn's remarks upon the use of a dead language in all records, although that absurdity was abolished soon after he wrote; and we recur to these matters for the purpose of observing how instructive the history of the change is to those who cry out against every alteration of judicial practice as replete with danger, and descant on the hazard of entering too precipitately even upon plausible reforms. Never perhaps was there a more glaring absurdity in any system of jurisprudence than the one in question. The common sense of all mankind must for ages have pronounced against it, as a thing hardly to be credited in the history of the most barbarous people. Yet only mark how long it triumphed over reason, and how reluctantly it was abandoned by the professors of the law. Four hundred years before the stat. of Geo. II. put it down, our ancestors had made the first step towards rendering judicial proceedings intelligible to those who alone were interested in them, the parties and the publick, by prohibiting the use of French in oral pleadings; and the very next step which the Legislature was permitted by the lawyers to take, was the one we are now adverting to, after the lapse of that vast interval. The statute of Edward III., * whilst it put an end to the practice of speaking a foreign living language in the Courts, ordained all the writings to be in a dead language, much less intelligible to the people. But as few in those days could read any thing, the inconvenience was not very great.—Towards the middle of the eighteenth century, when the inconvenience, we could almost say the indecency, of the practice was gross and glaring, there was the usual difficulty in obtaining its abrogation; and the accustomed arguments were used in its defence. The Bill met with a strenuous opposition in both Houses; but particularly, as was to be expected, in the Lords, where Lord Raymond, being Chief Justice of the King's Bench, took the lead against it.† The steady determination, however, of the Whig ministers, carried the measure through; and the preamble of the Act is worthy of attention, as well as that of the older statute, because they are couched in terms which form a very striking contrast to the

* 36. Edw. III. c. 15. † Lords' Debates, IV. 50.

squeamish language of the present day. When, by some extraordinary accident, or by the irresistible force of popular opinion, the friends of liberal and humane policy succeed in carrying any amendment of our code, the greatest fear is always betrayed of seeming to admit that the old practice was absurd and mischievous. The preamble, which should, with becoming frankness and honesty, speak the mind of the Legislature, fritters down the reasons for the enactment to something so obscure and so feeble, as to leave the unlearned reader in great doubt whether or not the change was justifiable, and to convince the learned, beyond all doubt, that it was either reluctantly or unthinkingly adopted. 'Whereas it is expedient to enact, as 'is hereinafter enacted,' is no uncommon preamble in modern statutes.—'Whereas the said act hath not been found effec-'tual,' &c. is as far as blame is ever carried. More commonly, the phrase is—'Whereas the said act hath not produced the good 'effects that were expected.' In one instance, where a very gross abuse was to be done away, the iniquitous and senseless privilege of Members of Parliament to receive, without any cost, office copies of bills in equity filed against them, (which rendered it impossible to sue them for inconsiderable sums, especially where more than one were to be made defendants), the only censure passed on the practice was, 'that justice may be ad-'ministered more equally in point of expense.' And on another occasion, when a bill, repealing a most barbarous capital felony, was sent up to the Lords, with the preamble—'Whereas it is 'highly expedient,'—their Lordships, out of their signal tenderness towards the bad law now in its last extremity, were pleased, with much solemnity, to expunge the word *highly*; nicely deeming, that though the abrogation might be expedient, it was by no means highly expedient. To all this squeamishness, the preambles of the older statutes afford but little countenance. That of Edward III. speaks openly of the 'great mischiefs' occasioned by the use of a foreign tongue in pleadings; states the advantages arising from every man understanding the law, and thus being able to govern himself, without offending it; and adds, (what in our times would be held little less than disaffection), that 'in divers regions and countries where the king, the nobles, 'and others of the realm have been, good governance and full 'right is done to every person, because that their laws and cus-'toms be learned and used in the tongue of the country.' The statute of Geo. II. follows, in great part, the words of this honest preamble; and adds, that it is meant to 'protect the lives and 'fortunes of the subject, more effectually than heretofore, from

'the peril of being ensnared and brought in danger by forms 'and proceedings in courts of justice in an unknown language.' We have been led unawares into this digression, by the great interest of every thing relating to that short but important chapter in our political annals, which records the history of the amendments of the law. But we must now return to trace the progress of the work more immediately before us.

In 1735, the seventh and eighth volumes were edited, but not by Mr Emlyn; and, in 1766, after the third edition had appeared of the first six volumes, a ninth and tenth were added. At length, in 1775, Mr Hargrave published a complete edition of the whole ten volumes. Beside furnishing a new preface, and reprinting all the former ones, * he did not profess to make any additions or alterations, until the year 1781, when he published his eleventh and supplementary volume, in which a number of most curious and important cases are given, with his usual fulness of learning and illustration, and a uniform set of tables, alphabetical and chronological, added, so as to make the entire series for the first time one whole work, and easily consulted. The industry of Mr Hargrave added no less than twenty-eight cases to those of the period over which the former editions extended; beside three celebrated causes, *Falerjos* v. *Mostyn,—the Dutchess of Kingston's Case* (the most frequently cited of any perhaps in the whole State Trials),—and *Rex* v. *Horne.* He likewise gave an appendix of eight valuable juridical pieces, formerly scattered over different Reports, and highly convenient to have brought together.

Valuable as Mr Hargrave's was beyond all the former editions, there is no doubt that he left a great deal to be done by succeeding editors, even upon the ground which he had laboured. He admits himself, that *there are upwards of a hundred Parliamentary trials during the period embraced by his edition, and which former editors had omitted, that is, Impeachments, Bills of Attainder, and Bills of Pains and Penalties.* Yet his eleventh volume only contains six of those hundred proceedings, which, with those of the preceding editions, do not make above five-and-thirty in all. That learned person had not added a single note or illustration to the ten first volumes; yet, since Mr Emlyn's time, many points had occurred, and many sources of information been opened, which required the notice of an elaborate editor. There remained likewise a number of interest-

* He omits, however, a curious calculation in the second edition, where the price is deduced from taking 1416 sheets at three halfpence a sheet for small, and 2½d. for large copies.

ing trials in Scotland, especially during the reigns of Charles II. and James II., which had escaped the attention of all former editors, and yet were calculated to throw great light upon one of the most interesting periods of both Scottish and English history, the struggles for civil and religious liberty which preceded the glorious Revolution of 1688. Since the date of the former edition, too, a memorable period of political history had elapsed; and the State Trials, to which it had given rise, were among the most interesting in themselves, and the most important in their consequences, of any in the juridical annals of the country. Lastly, as, in former cases, the extreme interest of any proceeding, and the importance of the legal questions to which it gave rise, had been held a sufficient reason for classing it among the State Trials, although it bore no reference to public affairs: so, there were many causes which had occurred in later times deserving of a similar station, from their tendency to excite men's feelings, or to display the talents of advocates, or to raise nice legal discussions, or indirectly and remotely to affect political interests. It seemed as if all these circumstances required a new and more full and elaborate edition of this great work at the present time; and happily the qualifications requisite in an editor were found united to an extraordinary degree in the gentleman whose work is now before us.

Mr Howell was a man of independent fortune, who had been bred to the profession of the law; but from taste, as well as from circumstances, had addicted himself more to the study than the practice of jurisprudence. He possessed extraordinary diligence and powers of research; and took great delight in everything relating to the study of legal antiquity. Though by no means a man of regular habits, yet such was his fondness for these inquiries, that it may be doubted whether any common drudge could in the same time have mastered as great a mass of materials as he did, by constantly keeping the subject in his mind more or less, and, at intervals, labouring with uncommon assiduity and zeal. Even when working the least upon it, he never lost sight of his great purpose; and was constantly adding, either to the book itself as it proceeded, or to his materials for enlarging and enriching it. His opinions on political subjects gave the inquiries in which the progress of the book engaged him, a double relish, and communicated an additional importance to his researches; for he was the warm and steady advocate of constitutional liberty, which he prized highly in proportion as he had deeply studied its foundations and the progress of its structure. This felicity and this praise he shares with all the former editors except Salmon, whose concern in the origi-

nal work was little more than mechanical, although he laid claim to a somewhat higher title by his subsequent commendable abridgement. His principles were of the worst and narrowest description; and all his remarks are deeply tinged with them. He was a prejudiced Tory of the school hostile to the Revolution; and had none of the liberal views with which many advocates of the old system have, since its overthrow, tempered the violence and bigotry of their original opinions. No men can be imagined more opposite to him, and better calculated, from the accidental circumstances of their political creed, as well as from their intrinsic qualities, to do the work justice, than the three who have since undertaken it, and the last of whom seems to have carried it as near perfection as posssible—Emlyn, Hargrave, and Howell.

The name of Mr Cobbett was originally affixed to this work; but, in the Advertisement which he published, he appears to admit that his name only was used; nor is there any reason for suspecting that he ever contributed more than the advertisement itself. Mr Howell very soon came to be known as the real editor, and for many years no other person has been named in the title-pages. The work was brought down by him to 1781 before his death, when it consisted of twenty-one volumes; to which eight or ten more are now to be added under the superintendence of his son, who, beside other assistance, enjoys, of course, the benefit of all his father's collections.

Of the manner in which Mr Howell has executed his task, and the value of his work, it would be difficult to speak in terms of too high praise. The reduction of size alone from folio to octavo, must be admitted to form an important improvement, whether we consider cheapness or convenience. But Mr Howell was successful as well as indefatigable in his researches for new matter. To the improved and enlarged edition of Mr Hargrave, he was enabled to add above two hundred articles, consisting of trials and proceedings never before brought together in any such collection. The defect which Mr Hargrave acknowledged he had left in his edition, by omitting above seventy Parliamentary proceedings, connected with the criminal judicature of that high tribunal, has been abundantly supplied by Mr Howell, who appears to have ransacked all the records, as well as all contemporary publications, for whatever could throw light upon this important and interesting subject. The learned editor's temporary residence in Scotland also enabled him to enrich his collection with a considerable number of Scotch trials, during the period between the Restoration and Revolution. By these and the other additions, this work has been augmented

very materially. It may give the reader some idea of Mr Howell's diligence and success, if we state that the first volume, which comes down to the end of Elizabeth's reign from Beckett's trial in Henry II.'s time, and contains comparatively fewer notes, comprises no less than forty-seven new articles in seventy-three, that is, about 700 out of 1452 pages.

But, perhaps, the principal value of Mr Howell's labours is in the notes. These contain all the legal learning and historical illustration which the student can desire; and they furnish him both with references to the authorities or sources of information which he may wish to consult, and with such parts of other works, chiefly contemporary, as throw any light upon the matter in hand. Thus it becomes not only easy and agreeable to study the trials themselves; but any one is enabled to study the different points of discussion which are presented to him, if he is disposed further to pursue the subjects.

We shall convey a better idea of the notes, if we select an example. In Vol. II. p. 1049, we find the case of Mary Smith, executed for Witchcraft in the 13 Jac. I. It is now, for the first time, printed in any collection; and is taken from an old tract printed in 1616, by a divine of that day, who appears to have most entirely believed in the offence. The proceedings are not given, but only the substance of the charges, and of her own confession. The notes contain, first, an account of the rare pamphlet from which the case is taken; next the passage relating to witchcraft, in Blackstone, wherein he deduces the history of the offence to the tardy abolition in 1736, and gives a strangely doubting opinion upon the subject; then follows a passage from Selden, expressing no belief in the thing, but unaccountably vindicating a law which should make the pretending to it capital.—A reference is afterwards made to the Obi, or Negro witchcraft, and the place in Edwards where it is described; and the remarks of Daines Barrington on the 20 Henry are abridged. A variety of opinions, anecdotes and references, are then given, from great writers of all ages, tending to elucidate the history of this subject; so that, beside having sufficient lights to study the case to which all these notes belong, the attentive reader may amuse or instruct himself by pursuing it further to almost all the sources from whence the learning of it is to be derived. The conciseness of this, as well as of all the other notes, which consist not of extracts, but are Mr Howell's own composition, merits the highest commendation. Each sentence contains matter, and is full of learned references. The author never deviates into dissertation; but, remembering that he is a commentator, hastens to lend the reader his aid, and to give it in the speediest and most effectual manner.

This publication manifestly deserves the amplest patronage which the public can bestow. Although conducted and completed by individuals, it may truly be called a national work. Both lawyers and statesmen have a peculiar interest in it; but the public at large are intimately concerned in having so perfect a record of all the proceedings which throw light upon the origin and progress of government and of judicial administration. Nor is there any work to which those who merely read to amuse themselves, may be more safely referred for rational and agreeable relaxation. We have long owed this testimony to the singular merits of Mr Howell, and are happy in thus having an opportunity of expressing the gratitude which we feel in common, we should hope, with the rest of the community. It is still, we trust, in time to prevail on his son not to abandon, upon any account, the useful task which he has undertaken, of continuing the work to the present times.

ART. XII. *The Bible, not the Bible Society; being an Attempt to point out that Mode of Disseminating the Scriptures, which would most effectually conduce to the Security of the Established Church.* By the Rev. WILLIAM PHELAW, Fellow of Trinity College. pp. 185. Dublin. 1817.

THIS pamphlet has not been selected for the purpose of discussing the subject of which it immediately treats; but because it affords us an opportunity of saying a few words on the actual condition of the Catholics, and of the Catholic religion in Ireland. The reverend author gives us some new and important views on this subject; and furnishes, indeed, so much detailed information concerning the present state of the Irish Catholics, as to entitle his work to attention from a different class of readers than that for which it was apparently intended.

Mr Phelaw is a clergyman, inveterately hostile to the circulation of Bibles without Church Catechisms,—a Fellow of the very Protestant University of Dublin,—and zealous, above all things, for the Protestant establishment in that country. He has also had the best opportunities of studying, on the spot, the character of the Irish Catholics, in all their relations whether religious or political; and should therefore be an authority above all suspicion with those whose general principles coincide with his. Now, it is to persons of this description that we would particularly recommend the perusal of his book; and especially to those among them who are hostile to the emancipation of the Catholics, from a supposition that Popery flourishes among

them in all its ancient power and splendour; who think that all who outwardly profess it are irrevocably attached to it; or who have brought themselves to believe, that they are the only Dissenters from whom the Established religion is in danger. The statements of Mr Phelaw, we think, should go far to disabuse them of these prejudices—his opinion being, in a word, that Popery is verging fast to decay in that kingdom; and that the only real hazard is, that they will be converted by Protestant sectaries, and not by the orthodox champions of the Church.

'I have been the more anxious,' says he, 'to familiarize my readers to the novel contemplation of the "conversion of the Romanists," because I am deeply impressed with the conviction, that on them depends the fate of the Church in this country. The signs of the times prognosticate a great religious revolution amongst the Roman Catholics of Ireland; and the Establishment will stand or fall, according as they unite themselves with Churchmen or Dissenters.'—'If they should become Calvinists, or Socinians, Baptists, Methodists or Independents, what will they have gained in real Christian edification, or the United Church in strength or security? On the contrary, is it not evident, as to this latter point, that the present peril of the Establishment will be fearfully increased, if, sanguine by nature as they are, and heated by fanaticism as they then would be, the great mass of our lower classes should ever be drawn into the ranks of the Sectaries?'

Here, then, is the evidence of a zealous advocate of the High-Church party, announcing, with all the authority that belongs to his learning, station, and local knowledge, this most important fact, that the Catholic religion in Ireland, so far from being in a condition to be dreaded for its power, is actually tottering before the influence of Sectarian zeal, and the general improvement of the human mind. This general statement he afterwards proceeds to support, by mentioning, in detail, the several societies which are constantly at work in promoting the revolution which he has foretold, and by explaining how much the indolence of the Established Clergy, and the political hostility of the Government, contribute to lead the Catholics who are disposed to change their religion, to prefer the Sectaries.

It appears, that the English Baptists have a Society for promoting the Gospel in Ireland;—that they have itinerant preachers; readers and expounders of the Irish scriptures; evening schools; sabbath schools and day schools;—and that they are preparing others on the circulating plan, so successful in Scotland, for teaching Irish. Their Reports are crowded with accounts of Catholics declaring, that 'they will read the Scrip-'tures in spite of Pope, Bishop, or Priest;' and many are mentioned as having 'altogether renounced Popery, and de-

'termined never to go inside the door of a chapel.' The Irish Evangelical Society is an association, still more formidable than that which has just been described. The parent Society is in London; and auxiliaries have been formed in Dublin, Cork, Belfast, Sligo, and Youghall. The Magazine of this Society is full of descriptions of the favourable reception which their Missionaries have met from the poorer Catholics in all parts of the country. In one of the late Numbers, the following summary is given of a Report read at a meeting of the Society in London.

'We partook of the surprise and pleasure which pervaded the room; for, until we heard the Report, we had not imagined that a society, so infantine and unassuming, had been able to accomplish so much, and to have so widely extended its exertions. It appears, indeed, as though God had prepared the population of Ireland for the reception of the Gospel. We learnt with satisfaction, that besides supporting and assisting ministers in nearly twenty counties, and in each of the four provinces, Mr Loader had under his care, in the Academical Institution founded in Dublin, eight students preparing to devote themselves to the works of the Christian ministry in Ireland.'

The Socinians also have been encouraged, by the present aspect of the Catholic religion in Ireland, to undertake the work of proselytism.

'The efforts of this sect,' Mr Phelaw says, 'are aided by all the machinery of a policy, at once the most profound and the least scrupulous. They have commenced in the south, and have numerous and zealous wellwishers in various other parts of the island.'

There is also the *Hibernian Society*, the centre of which is in London, and which has made a greater progress than any other in extending itself in the most Catholic counties. It has been actively employed since 1814 in establishing schools for the religious education of the children of the poor, more especially of those of Roman Catholic parents. The number of their scholars, in the month of May last, was 32,516, besides 1250 adults who are taught to read. New schools are about to be opened in various parts of the country, as fast as the funds of the Society are increased by additional subscriptions. The system is one of the greatest economy—as the Society build no houses, and make no payments, except at the rate of five pounds for every twenty scholars who are taught in compliance with their regulations, and who must pass a regular inspection. The Reports of this Society are full of instances of Catholics resisting their priests. In one of them, it is related 'that the people 'say, it is not now with them as formerly; and that they are not 'afraid of the priest or bishop, and will not obey them in keeping their children from reading the Word of God.' The fol-

lowing extracts, from letters written by the Inspectors of the Society, will serve to show how great a change is already produced in the minds of the Catholic poor.

'The people hold the schools in great estimation. When they are forced, by public proclamation after mass, or when it is required of them privately at confession, to take away their children from the schools, they soon relapse, and send them again.' (p. 19.)—'Priest B.'s endeavours to keep the Scriptures out of the hands of the laity, have had as little effect as his opposition school. Applications are almost daily made to me for Bibles and Testaments by his parishioners.' (p. 37.)—'The more the priest forbids the parishioners' letting their children go to any of our schools, the more they see the necessity of sending them, contrary to his orders.'—'I understand that the people are not now much in dread of Priest B.'—'I heard many say, that they did not think much of his thunders and threatenings; that the noble and well-meaning people of England gave their children books and education gratis; and that they would receive them thankfully.' (p. 49.)—'The priest threatened vengeance against any of his parishioners that should send their children to the school; but the people, with one accord, refused to pay obedience to the priest in this matter, and continue their children at the school.' (p. 60.)

These few facts speak volumes as to the intellectual improvement of the Catholics; at the same time that they place beyond doubt their disposition to rebel against such of their clergy as still endeavour to keep them in ignorance,—whatever may be thought of them as evidence of their being generally on the eve of conversion. Besides these several Societies, which are of English origin, there is a very active and powerful one in Dublin, called the Sunday School Society, which is making great strides in extending education among the Catholic poor. The number of their scholars is stated, in their Report of this year, to be 59,888.

'There are other institutions,' Mr Phelaw says, 'of minor importance; but whichever of them we consider, the result is invariably the same; the people every where ready to throw off Popery, and the sectaries every where taking advantage of the opportunity. But,' adds our reverend author, 'it is not merely from a view of the more humble ranks that we are justified in anticipating the fall of Popery in Ireland. In whatever attitude we contemplate the Romanists, whether we consider the religious or political aspect of that body, the sentiments of the higher classes, or dispositions of the lower, the probabilities of this change will appear equally striking. With respect to those who are of most importance for wealth, and influence, and education, the continuance of the name of Popery is to be ascribed to causes altogether distinct from religious considerations. The party leaders avail themselves of the prevalent superstition, and urge it to the utmost extremity their occasions require. They affect,

it is true, a profound reverence for the titular Hierarchy; but these professions are not entitled to much consideration. It is but justice, however, to say, that the attempt at deception is mutual, and mutually understood. The leaders, in reality, scoff at the bishops; and the bishops inwardly shrink from the leaders. These latter gentlemen have seduced their Right Reverend associates into measures which utterly overturn the foundations of Popery. The Pope's supremacy is now practically abjured by the Romish clergy, in the only sense in which the King's supremacy is admitted by the Established Church. They assemble in synods without his permission, and they reject his authority in determining the mode of ecclesiastical appointment. To complete the causes of misunderstanding, the bishops are aware that the temporal aggrandizement of the Romish clergy is no part of the system which the leaders are pursuing. They are well assured, that if the designs of these men were successful, even to the satisfaction of the most imaginative amongst them, Popery would never be erected into the Established religion in Ireland.'

He then goes on to show that the Catholic country gentlemen 'are satiated with the absurdities of their religion;' that the more opulent inhabitants of the towns are rapidly losing the religion they had, and acquiring no other in its place; 'that 'the influence of the priests is notoriously on the decline 'amongst the lower orders; and that there occur, frequently 'and without remark, instances of sturdy opposition to their 'will, which, but a few years ago, would have been regarded by 'the whole parish as most awful indications of an abandoned 'castaway.'

It is curious to see in what opposite ways a subject is sometimes treated by persons professing the same general principles, and having the same objects in view. In England, the great theme of the High-Church party is, that the Catholic leaders are a parcel of fanatics, ready to sacrifice everything to the will of their bishops; that the bishops are governed in all things by the Pope; and that the body at large will never be satisfied until the temporal authority of their clergy is secured, and the Catholic religion erected into the Established religion of Ireland. In Ireland, however, all these things are flatly denied by a vehement High-Church man,—as zealous for Protestant ascendancy as any of his fellows on this side of the water,—and only differing from them in this—that his opinion is founded upon actual observation and personal experience, while theirs rests entirely on certain ancient documents, showing how Catholics thought and felt in former ages. The result of all our inquiries has accordingly been conformable to Mr Phelaw's allegations;—and the sum of the matter seems to be, on the one hand, that the Irish Catholics, both clergy and laity, are every day becoming more

reasonable, and more desirous of improvement; and, on the other, that the influence of the bigotted part of their priests, and of superstition in general, is every day diminishing. They are less blindly attached to their religion; and their religion itself is more worthy of their attachment. All this, indeed, is no more than was to have been expected from the recent history of the country. The removal of the restrictions on the trade of Ireland in 1776; the reformation of her constitution in 1782; the repeal of those laws which were made, and made successfully, to keep the Catholics in poverty and in ignorance; the progress of discussion at public meetings, and by the public press, together with the extension of education, have all had a wonderful influence in enlarging the conceptions of a people peculiarly gifted with intellect, and every day advancing, from a state of pure barbarism, into one of comparative enjoyment and civilization.

Obvious as these things are, we are persuaded that the only conscientious opposition that is still made to the Catholic claims, is founded on ignorance, or inattention to them; and proceeds from men who take their notions of Popery from such books as Fox's Lives of the Martyrs, rather than through the actual existing principles, and the daily conduct of the Catholics themselves. In point of fact, the true state of the case as to the Catholic religion, is this, that while the name and externals are retained, which serve to waken up a traditional repugnance against it, it has been gradually purified, in most of its essential doctrines, to a near accordance with the standards of a reformed faith:—And the knowledge of this fact has already made the great majority of Irish Protestants favourable to emancipation. The divisions in Parliament of the Irish members, have, on the late discussions, been in the proportion of three to one in favour of the measure. The opinion of the country gentlemen is still more favourable; and the only virulent opposition that remains, is now confined to some Orange Lodges in the North, and to a remnant, of no consequence certainly either for numbers or talents, of the ridiculous party in the Dublin Corporation, who still delight in exposing their vulgar ignorance, by toasting King William as the champion of Slavery and Intolerance!

With this natural extinction of all reasonable opposition in Ireland, every circumstance in the actual position of the country seems to concur, in recommending the immediate abolition of those unjust restrictions under which our Catholic population have so long suffered and complained. Those who urged the war as a reason for postponing Emancipation, must allow the present settled state of peace to be peculiarly fit for that great work of amity,

The recent behaviour of the Catholics may be urged as another reason. There have been no violent speeches, or angry resolutions, since 1813; no meetings of Catholic Boards; no menacing petitions; no proceeding of any kind which could offend the most sensitive loyalty. The Catholics very properly abstained from urging their claims in the last session of Parliament, in order not to embarrass their friends with any inconvenience on their account, when they should seek to be re-elected. Throughout the numerous contested elections which took place in Ireland, nothing could be more exemplary than the conduct of the Catholic freeholders: And if a wholesome and discreet exercise of one great constitutional franchise, can strengthen their claim to be entrusted with another, their recent conduct entitles them to this advantage in the highest and most emphatic degree. But the circumstance that augurs most conclusively for their success in the approaching session, is the temper in which the late elections were universally conducted. From the total absence of the No-Popery cry, and the returns of persons, in so many instances, of liberal principles, in preference to men avowedly devoted to exclusion, there is just reason to conclude, that a majority of the new House of Commons will be in favour of the Catholics. The appointment of Mr Robinson to the Cabinet, and of Mr Grant to the Chief Secretaryship of Ireland, are occurrences which justify the same expectations.

Many of those who are loudest in their expressions of horror at the Catholic religion, are apparently ignorant of the close resemblance which it bears to that of the Church of England; for, though the Established Church has renounced the errors of Popery, it has departed much less from the Church of Rome than any other Protestant communion. We, as well as the Catholics, belong to an Athanasian, Episcopal Church; we, too, boast of an uninterrupted apostolical succession; we condemn heresy and schism as in themselves offences; and we recognise the first four Councils as explanatory of the essential articles of belief. ‘A great part of the Roman faith,’ says Archbishop Tillotson, ‘is the same with ours,—as, namely, the articles of the Apostles’ Creed, as explained by the first four General Councils; and these make up our whole faith, so far as concerns matters of mere and simple belief, that are of absolute necessity to salvation.....And thus far our faith, and theirs of the Romish Church, are undoubtedly of equal authority, that is, as ancient as Christianity itself..... And as for the negative articles of the Protestant religion, in opposition to the errors and corruptions of the Romish faith, these are by accident become

a part of our faith and religion, occasioned by their errors.—When the additions which the Church of Rome hath made to the ancient Christian faith, and their innovations in practice are pared off, that which remains of their religion is ours.' *Sermon* 27. With such a concordance, then, between the two religions in essential points, it is rather too much to proscribe one of them, as so hostile to the other, as to be a sufficient cause for debarring all those who profess it, from the most valuable of those privileges, to which all British subjects are by their birthright entitled. There are many other countries the inhabitants of which are divided in their religious creeds, as they are in Ireland; but in none of these is this made a ground of civil disqualification. Is the Government of England less stable, or her rulers less enlightened, than those of these other nations? It is but the other day, we observe, that the King of Prussia has founded a new university at Bonn, where the Catholics are placed on an equal footing in every respect with the Protestants; and a long code of regulations enacted, to protect them from every species of molestation on account of their religion. What will Oxford, and Cambridge, and Dublin say to this?

The newest, however, and most fashionable charge against the Catholics is, that they are hostile to the progress of Education; and they are accused not only of hindering others from teaching their poor, but of studiously neglecting this duty themselves. Fifty years ago there might have been some ground for this imputation; but it is utterly groundless at present; and we are happy to have it in our power to lay before our readers the most ample and conclusive proofs of its falsehood.

Most of them, indeed, may recollect, that an advertisement appeared repeatedly in all the London papers, in the course of last year, soliciting subscriptions for a new Institution for the Education of the Irish Poor of all Persuasions; to which were subjoined, the signed recommendations of three of the Catholic Archbishops of that kingdom, and of the Earl of Fingal; and we are enabled to say, on the authority of a gentleman who lately visited the school in Dublin, that no similar institution is conducted in a better manner. The same gentleman conversed with a titular Archbishop concerning this plan of Catholic education, and learnt from him, that the only impediment in the way of establishing similar schools, in all parts of Ireland, was the difficulty of obtaining money to provide school-houses. Teachers of the best description were to be had in sufficient numbers, without any expense, from an association of young men, of independent means, who devoted themselves to public teaching.

The following extracts, however, from the 11th Report of the Hibernian Society for 1817, throw an invaluable light upon this interesting subject. They are taken from Letters written by or to the Inspectors of the Society, on the spot; and as they contain a good deal of valuable information, in the most authentic shape, we shall make no apology for giving them in some abundance. At page 9, we read,

'In the parish of A——, the Catholic rector favoured the school, while the curate opposed it: the latter denounced the school from the altar, and prohibited the parents from sending their children thither for instruction. The rector was absent when this took place: But having been informed of all that occurred, he took an early opportunity from the altar of speaking very highly of the Society; he recommended it as the greatest blessing to the poor; exhorted his people not to lose the opportunity offered for the education of their children; and observed, that he had examined the books used in the school, and had found they were not only free from error, but were the best he had ever met with.'—P. 35. Letter from the Rev. T. C. parish priest, October 19, 1816. 'You highly honour me by inserting my name as one of the visitors to the schools of the Hibernian Society. I shall do all in my power to promote the education of youth in its vicinity, in concert with that laudable Institution.'—P. 36. Letter from the Rev. J—— F——, parish priest, March 17, 1817. 'I have ever felt anxious for the instruction of the poor of every description, but especially of those of my own communion, whenever that object could be obtained, without compromising their faith; and as I could discover no tendency in your schools in the parish of C—— contrary to either faith or morals, if I did not give them my public sanction, at least I gave them no opposition. I did, and still do propose to visit them occasionally.'—Letter from an Inspector. 'Priest M'G. who had been our inveterate enemy, forbidding his parishioners to send their children to our schools, is now our cordial friend, and has made application for a free school to be established in his chapel. Priest M'N. also, who formerly persecuted the schools, now favours them. In an adjoining parish, Priest B—— assured the people, that the institution of the schools was the best thing that had ever been done for Ireland for the benefit of the poor. He also recommended the reading of the Scriptures. By these means the prejudices of the people have been considerably removed, and the schools are now crowded with pupils.'—P. 38. 'Their priest M'G— favours the institution, and orders them to send their children to the schools.'—P. 40. 'The priest behaved friendly, and said he wished much for the prosperity of the schools.'—'After the priest left us, D—— told me, that had it not been for his kind offices, he should not have been able to establish a school there.'—P. 41. 'The Priest G—— prayed sincerely for the prosperity of the schools, though he confessed that in the beginning he was a great enemy to them.'

We shall make no apology for adding some further extracts from the 12th Report of the Hibernian Society for 1818; because we are quite sure that no information can be more really useful and interesting, than these plain statements of what is actually going on amongst the Catholic Clergy and their flocks, concerning education.

P. 27. 'I know not whether I have mentioned the establishment of a very extensive school in the parish chapel belonging to Priest O—l, the first enemy the schools had to contend with. Around the altar, from which so many anathemas were hurled against the Scriptures and all who should read them, are now assembled in peace the children of his then terrified and appalled hearers.'—P. 41. 'The priests have been consulted, and cheerfully allow the children under their inspection to use the Testament, and commit it to memory.'—P. 43. Letter from the Rev. R. H. parish priest, July 17, 1817. 'Would to God that all Christians, of whatever denomination, would zealously unite to rescue the poor from ignorance, and diffuse amongst them the light of the Gospel! I understand that some clergymen of my persuasion do not approve of the method offered by the Society for the instruction of the poor Irish, under the apprehension, I suppose, of their gaining proselytes to the Protestant religion. I entertain no suspicion of that tendency, but judge very favourably of their laudable design; and, consequently, shall always feel happy in contributing my mite towards the edification of my poor parishioners.'—P. 44. Letter from the Rev. P. I. parish priest, October 20, 1817. 'I should consider myself guilty of a sin of the blackest die, was I not to inform you of every iota which could have the least tendency to injure so laudable an institution.'—P. 45. 'Priest M'N. who had been a great enemy to our schools, made application, a few days ago, for one to be established in his parish.'—P. 57. 'The priests, who were our greatest enemies in this country, are at present recommending what they formerly prohibited.'—P. 62. 'On Good Friday last, a conference was held in the town of G——, at which 33 priests were present, as also the Bishop. The different priests who did not like the institution, requested the Bishop to give orders to suppress our schools. Priest H—— opposed their proceedings, quoting from Scripture the inconsistency of such as would resist the truth, or prevent the education of the poor who were in ignorance; which had such an effect on the Bishop, that he said, "You may do what you please in your different parishes about this matter; but for me, I heartily coincide with Mr H——."'—P. 72. 'My school goes on well; and although the Catholic priest has a free school in opposition to me, several Catholic children have come to my school from it.'—P. 36. 'Priest B.. a man who, for avowed hostility to the schools, cannot be exceeded, set up a free school here.'—P. 41. 'A priest newly come from M ——, is using all his might to put down Mr G——'s school; and, for this purpose, is taxing the people to keep a school in C——.'

We need not proceed, we believe, with these citations. It is impossible, after reading what we have already transcribed, to doubt either that a great proportion of the priests now approve of the poorer Catholics sending their children to free schools; or that those who continue to interdict that practice, have been stimulated to the erection of other schools for their instruction.

Of all the miserable effects produced by the present system of Catholic oppression, none is more conspicuously mischievous, than the fatal obstruction it creates to the due administration of the laws, for the preservation of the public peace. The lawless habits of the people, in the ordinary and best state of the interior, and all the occasional disturbances of a more serious character, are to be traced to the system of law which has divided the inhabitants of Ireland into a Protestant Ogliarchy, administering in detail the government of the country over a Catholic multitude:—the one armed with all sorts of arbitrary powers; the other excluded from the Constitution, and subjected to every species of penalties. Of the actual state of an Irish county, the following may be taken as a pretty correct representation—A population of 100,000 souls inhabiting about 250,000 acres; the whole divided into large estates by grants, not very ancient, of the old Catholic lands, from the Crown to the Protestant followers of English armies; nearly all the proprietors of those which exceed 4000*l.* a year, absentees; the other proprietors, few in number, with the richer class of Protestant tenants, having their incomes from leases for lives renewable for ever, forming the resident Magistracy; the actual occupiers of the soil a multitude of small Catholic farmers, holding each from four to 100 acres of land; and a crowd of Catholic peasantry, all of whom also hold land, and live in cabins scattered over the face of the country. As the poorer Catholics have never known the law but as an enemy, they regard it with a natural hostility; and there exists, throughout all Ireland, an indigenous combination to evade, to violate, and to resist it. The most flagrant outrages occur in every part of the country, and are allowed to pass unpunished, from the difficulty of obtaining information, of making arrests, and of procuring evidence. Trees are cut down and carried away, of such size as to require many men and horses to perform the work; yet no one can be got to name the parties. Cattle are stolen and driven through a populous country; potatoes are dug and carried off in the night; hay stacks robbed; lands grazed; cows milked in the fields, and every species of small theft committed;—concerning all of which deeds, and their perpetrators, the whole Catholic population know every thing, and the Protestant magistrates and suf-

ferers can learn nothing. It has frequently happened, during the late bad years, that when a tenant has expected to be distrained for his rent, he has collected his neighbours, and carried off the whole produce of his farm in the course of a night, and divided the custody of it in such a manner as to deprive the landlord of his remedy, and yet have it faithfully preserved for his own advantage. It is a sort of standing rule among the country people, to do every species of injury to those who interfere with the old occupier of a farm when it is out of lease, or possession of it recovered by ejectment—though he may have robbed his landlord, and be the most worthless character in every other respect; and all this without any one running much risk of being brought to punishment. It is almost useless to attempt to recover rent by distraining cattle, because, in 99 cases out of 100, a rescue is sure to be effected: and this not always by the party interested, but by the voluntary interposition of the lower orders to afford protection against the laws. Warrants can rarely be executed without great danger to the officers, who are continually obliged to have a military force with them to take possession of the smallest tenements. Whenever a Magistrate endeavours to enforce the laws, and succeeds in bringing offenders to justice, he becomes exposed to every species of revengeful retaliation; his property is injured, and his life is often sacrificed to a conscientious discharge of his duty. Witnesses, whenever their evidence goes to the taking away of the life of an offender, can rarely escape death themselves, except by quitting their own country. In short, the people, by their universal combination against the administration of the laws, and their general system of intimidation, have virtually banished all law, and left society to work its way in a manner unprecedented in any civilized community. The influence of the Priest is often sufficient to maintain some degree of order; but that which regulates, for the most part, the conduct of one man towards another, is a sort of compromise or truce, which takes place between the higher and lower orders. The former, in a manner, bribes the latter to abstain from injuring him by many little acts of kindness, and more of forgiveness for small offences; while the latter, on the whole, finds it his advantage to keep tolerably well with them who have power to destroy him. Neither confidence in the power of laws, on one side, nor apprehension of punishment, on the other, enters much into the considerations which govern the conduct of these two great parties.

These things, utterly without precedent in the history of any other nation in the same state of society, must have causes; and

the successive and signal failure of all ordinary remedies has shown, that the causes are deep-seated, and mixed up with the very structure and constitution of the society. In vain have the hands of Government been strengthened, and the terrors of its power let loose, in every form of civil proscription and military execution. The evil of an alienated population is not to be so overmastered. They cannot love a constitution from which they are excluded; nor venerate a law which withholds from them the rights which it secures to the more favoured part of the population, by whom it is made and administered. All other experiments have been tried—not merely in vain—but with results on which it is frightful and pitiful to look.—Let us at last try the experiment of admitting all classes of the people to the benefit of the Constitution—and reconciling them to the law, by giving them an interest in the regular, and even strict administration of public justice.

We have no room now to argue any part of this question. But there is one view of the consequences of withholding their rights from the people of Ireland, that has been too little noticed. Since the Union, and the consolidation of the Treasuries of England and Ireland, the former country must pay the interest of any new debt contracted by the latter; the whole Irish revenue falling very far short of the actual charge for its local expenditure. The debt of Ireland, in 1795, was 4,441,308*l.*; on the 5th January 1817, it was 148,524,667*l.*—This great increase in twenty-two years was occasioned by the large army which was maintained in Ireland, amounting commonly to 50,000 or 60,000 men, besides the yeomanry. In the year 1795, being the third year of the war, the whole expense of the army was 1,300,000*l.* Since that period it has, on an average, been upwards of four millions a year. Now if, in 1795, Lord Fitzwilliam had not been recalled, and if he had been permitted to repeal all the Catholic penal laws, there plainly would have been no occasion for maintaining a larger army in Ireland than that which was sufficient for the year 1795.

The concession of Emancipation would have removed all grounds of rebellion, and all danger from invasion, in the same way that the refusal to make that concession promoted the rebellion that afterwards happened, and encouraged the enemy to make, or to menace an invasion; and a very small army, supported by the people, would have made Ireland a much safer possession to England than she was during any period of the war, though covered with troops. The difference, therefore, between the sum which was sufficient to pay the army in 1795, and the actual sum which was expended, forms

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[Although Mr O'Meara has already published a correction of the error which is noticed in the following Letter, we think it our duty to print Dr Fergusson's own statement, in compliance with his request.]

SIR, *No. 42, N. Hanover Street, November 14th, 1818.*

FEELING assured of your readiness, at all times, to correct any mistatement that may have unintentionally appeared in the Edinburgh Review, I can make no doubt you will be happy, in the opportunity of your next Number, to explain one that concerns myself. In the Number for November last, I am represented as the channel through which the correspondence from St Helena, relative to the State Prisoner there, has been given to the public.——This has been done in very handsome terms, I acknowledge; but as it has been done in error, it ought to be set to rights: For though the Correspondence of Mr O'Meara be addressed to William Fergusson, Esquire, it must have been meant for some other person of the same name, as I never have had the honour of being acquainted in any manner with Mr O'Meara, nor held communication with him on any subject whatever.

I have the honour to be,

SIR,

Your most obedient humble servant,

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